

Exhibit Y

Redacted

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UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Michelle Simha, as
Trustee for the
Next-of-Kin of Noah
Leopold,

Plaintiff,

Civil File No.
24-CV-01097-JRT-DTS

vs.

Mayo Clinic,

Defendant.

DEPOSITION OF GUSTAVO KNOP

Volume I, Pages 1 - 97

August 14, 2024

(The following is the deposition of Gustavo Knop, taken pursuant to Notice of Taking Deposition, via video, at Mayo Clinic, Legal Department, 100 2nd Street SW, Rochester, Minnesota, commencing at approximately 9:04 a.m., August 14, 2024.)

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APPEARANCES:

On Behalf of the Plaintiff:

Brandon Thompson

Bibeane Metsch-Garcia (via Zoom)

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On Behalf of the Defendant:

Andrew Brantingham

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ALSO PRESENT:

Ron Huber, Videographer

Anna C. Messerly, Ciresi Conlin

Maggie Palmisano, Ciresi Conlin (via Zoom)

Michelle Simha (via Zoom)

Norman Leopold (via Zoom)

Karen Leopold (via Zoom)

Jenna Shulman (via Zoom)

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PROCEEDINGS

THE VIDEOGRAPHER: Good morning. We

are on the record. Today is August 14th, 2024.

The time is 9:04 a.m. Today's case -- case

caption is Simha versus Mayo Clinic. The

witness for today's deposition is Gustavo Knop.

At this time the attorneys for the

various parties will introduce themselves and

the court reporter will swear the witness.

MR. THOMPSON: Brandon Thompson along

with Anna Messerly for the plaintiff. And on

the Zoom is Karen Leopold, Norman Leopold, Jenna

Leopold Shulman, Michelle Simha, and then

Bibeane Metsch-Garcia and Maggie Palmisano, both

from my office.

MR. BRANTINGHAM: Andrew Brantingham on

behalf of defendant and the witness.

(Witness sworn.)

GUSTAVO KNOP,

called as a witness, being first duly

sworn, was examined and testified as

follows:

EXAMINATION

BY MR. THOMPSON:

Q. Good morning, doctor.

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A. Good morning.

Q. Have you ever had a deposition taken

before?

A. No.

Q. Okay. So this is a process where we're

just trying to figure out some things that you

know, both about some general medical concepts

that are relevant to this case and the facts of

the case that we're talking about. Okay?

A. Perfect.

Q. You understand that?

A. I do.

Q. All right. Do you remember this OCS

run?

A. Yes, I do.

Q. All right. Do you have like a lot of

memories of it or just some vague recollections?

A. I should say most of the memories, but

probably not all.

Q. Fair enough. All right. We'll get

into those in just a minute, but that's good to

know. It helps me kind of direct where we're

going with the deposition.

A. Right.

Q. Tell me --

2 (Pages 2 to 5)

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<p>1 Well I'm not going to ask you to tell</p> <p>2 me about your practice history, because in</p> <p>3 looking at your CV it looks like you've</p> <p>4 practiced in a lot of hospitals kind of all over</p> <p>5 the world. Is that right?</p> <p>6 A. Yes, I did.</p> <p>7 Q. For how long have you worked at Mayo?</p> <p>8 A. I started January '22.</p> <p>9 Q. What brought you to Mayo?</p> <p>10 A. Mayo was increasing the transplant</p> <p>11 activity and they wanted to recruit people on</p> <p>12 the trans -- on the procurement side to have</p> <p>13 more expert people working on -- on that</p> <p>14 activity, especially on the development of the</p> <p>15 new techniques regarding DCD hearts and the use</p> <p>16 of OCS and other practices.</p> <p>17 Q. And that's something that you do have</p> <p>18 some expertise in it looks like?</p> <p>19 A. Yes. I did have quite a -- I should</p> <p>20 say significant expertise on that.</p> <p>21 Q. Let's talk specifically about OCS.</p> <p>22 What was your experience with OCS</p> <p>23 before you came to Mayo in 2022?</p> <p>24 A. I was in a --</p> <p>25 I -- I did a fellowship in</p>	<p>1 Harefield, quite -- in quite a number of cases,</p> <p>2 also in Papworth, for DBD cases to prove that</p> <p>3 they are at least non-inferiority compared to</p> <p>4 cold storage, and from there move on to</p> <p>5 demonstrate that it can be used and expanded on</p> <p>6 and our pools -- this expanded time of</p> <p>7 protection, which is the weak Achilles point of</p> <p>8 the cold storage.</p> <p>9 Q. Understood.</p> <p>10 If I am understanding your testimony,</p> <p>11 you think OCS is a pretty incredible piece of</p> <p>12 technology.</p> <p>13 A. I shouldn't call incredible, but it's</p> <p>14 very helpful.</p> <p>15 Q. In your experience with OCS, you of</p> <p>16 course know that there are a number of risks</p> <p>17 that are particular to the use of the OCS.</p> <p>18 A. There are always risks in medicine.</p> <p>19 OCS is not the exception.</p> <p>20 Q. No, I understand that. I'm not talking</p> <p>21 about just general risks that apply to just</p> <p>22 anything in medicine. I'm talking about</p> <p>23 specific risks that are specific to the use of</p> <p>24 the OCS. You know that there are such risks;</p> <p>25 right?</p>
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<p>1 transplantation Papworth Hospital. Papworth</p> <p>2 Hospital was a pioneer developing DCD hearts in</p> <p>3 the world. Despite they were not the first,</p> <p>4 they were -- they -- the first on high numbers</p> <p>5 and the second to do that all over the world</p> <p>6 regarding OCS and DCD hearts.</p> <p>7 Q. You're using both OCS and DCD. Am I</p> <p>8 understanding you correctly if I say Pap --</p> <p>9 Papworth?</p> <p>10 A. Yes.</p> <p>11 Q. -- was a pioneer in using the OCS Heart</p> <p>12 System in order to transplant DCD hearts?</p> <p>13 A. Was pioneer in DCD hearts in this</p> <p>14 research and clinical practice. OCS was part of</p> <p>15 that. Is not the target is OCS and the target</p> <p>16 is DCD heart transplantation. OCS was a part of</p> <p>17 that, the tools we had to do that.</p> <p>18 Q. The goal was to see if we can expand</p> <p>19 the available donor pool by taking DCD hearts,</p> <p>20 and OCS was one of the tools that were</p> <p>21 potentially available to make that a reality.</p> <p>22 Fair?</p> <p>23 A. Exactly. But -- but OCS was previously</p> <p>24 used, especially in UK where I was working and</p> <p>25 especially in another hospital in London,</p>	<p>1 A. I do know there are risk in</p> <p>2 instrumentation if you don't do it well. There</p> <p>3 are risks in management if you don't follow the</p> <p>4 common judgment and guidelines, both combined.</p> <p>5 And, yes, of course there are risks.</p> <p>6 Q. You're familiar with the research that</p> <p>7 says that sometimes hearts that are transported</p> <p>8 on OCS suffer myocardial damage that really</p> <p>9 can't be explained; right?</p> <p>10 A. You mean publications about that?</p> <p>11 Q. Sure.</p> <p>12 A. Yeah, it is possible.</p> <p>13 Q. It's not just possible, that is one of</p> <p>14 the things that the researchers who have</p> <p>15 published on OCS have specifically published;</p> <p>16 right?</p> <p>17 A. As I said, there are always un -- un --</p> <p>18 unwanted effects on the use of any device, any,</p> <p>19 any device, so OCS is not the exception.</p> <p>20 Q. I appreciate that, but I want to stick</p> <p>21 with the questions that I'm asking. And I'm not</p> <p>22 asking you about risks associated with any</p> <p>23 device, I'm talking about one specific risk with</p> <p>24 respect to one specific device.</p> <p>25 A. Yeah.</p>

3 (Pages 6 to 9)

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<p style="text-align: right;">Page 10</p> <p>1 Q. My question was: Are you aware of the</p> <p>2 fact that the researchers who have published on</p> <p>3 the OCS have published that some of the hearts</p> <p>4 that are transported on that machine suffer</p> <p>5 unexplained myocardial damage?</p> <p>6 MR. BRANTINGHAM: Object to the form.</p> <p>7 A. Yes, I am aware. But that is related</p> <p>8 to other issues, not -- for example, a long,</p> <p>9 long run on the OCS, many hours. The more time</p> <p>10 on the OCS the heart is, obviously the</p> <p>11 possibility of damage of the heart.</p> <p>12 Q. So the manufacturer of the OCS and the</p> <p>13 researchers who have published on this have</p> <p>14 written that that myocardial damage cannot be</p> <p>15 explained, but you're telling me that you have</p> <p>16 the explanation for it.</p> <p>17 MR. BRANTINGHAM: Object to the form of</p> <p>18 the question.</p> <p>19 A. No, I didn't say that.</p> <p>20 MR. BRANTINGHAM: Just, doctor, take</p> <p>21 one second so I can get an objection out and</p> <p>22 then you can go ahead. I'm going to object to</p> <p>23 the form of the question. You can go ahead.</p> <p>24 A. I didn't say that.</p> <p>25 Sorry. Repeat the question.</p>	<p style="text-align: right;">Page 12</p> <p>1 many OCS runs you personally have been on.</p> <p>2 A. In -- including UK?</p> <p>3 Q. Ever. Yeah, in your career.</p> <p>4 A. Yeah. Should be more than 50.</p> <p>5 Q. Less than 75?</p> <p>6 A. Yes.</p> <p>7 Q. So somewhere between 50 and 75.</p> <p>8 A. Possibly.</p> <p>9 Q. What's your best estimate as to how</p> <p>10 many runs you've been on since coming to Mayo in</p> <p>11 2022?</p> <p>12 A. I can't say accurate, but probably more</p> <p>13 than 30.</p> <p>14 Q. What is the longest OCS run you can</p> <p>15 recall going on ever in your career?</p> <p>16 A. About eight hours.</p> <p>17 Q. When you were working in the UK, how</p> <p>18 far would you travel to get an OCS heart?</p> <p>19 What's the farthest place you can remember</p> <p>20 going?</p> <p>21 A. Not far. Usually the distance were</p> <p>22 short, but on ground.</p> <p>23 Q. Understood.</p> <p>24 A. Not flying.</p> <p>25 Q. Understood.</p>
<p style="text-align: right;">Page 11</p> <p>1 Q. Yeah. I asked you whether you</p> <p>2 understood that the researchers published that</p> <p>3 there was myocardial damage that happened for</p> <p>4 unknown reasons. You said, yes, but it was</p> <p>5 because of other factors like a very long OCS</p> <p>6 run. Did I understand you correctly?</p> <p>7 A. Yes. I made the clarification that</p> <p>8 myocardial damage can occur, but it is related</p> <p>9 to other issues that may happen during the</p> <p>10 transport and the time.</p> <p>11 Q. Do you think that's what the</p> <p>12 researchers published in the EXPAND study?</p> <p>13 A. I am not aware of the details, and that</p> <p>14 is what I have in my experience.</p> <p>15 Q. So in your experience, how many hearts</p> <p>16 on a long OCS run have suffered significant</p> <p>17 myocardial damage?</p> <p>18 A. I should say very few, but in very long</p> <p>19 runs.</p> <p>20 Q. How long?</p> <p>21 A. Between six and --</p> <p>22 More than six hours on the machine.</p> <p>23 Q. Are these runs that were done at Mayo?</p> <p>24 A. I can't recall any with that.</p> <p>25 Q. Give me your best estimate as to how</p>	<p style="text-align: right;">Page 13</p> <p>1 What is the longest OCS run you can</p> <p>2 recall going on since you've been at Mayo?</p> <p>3 A. About six hours maybe. I can't say</p> <p>4 exactly. You are asking me questions I don't</p> <p>5 have the list, whatever.</p> <p>6 Q. Yeah.</p> <p>7 A. I'm just replying based on what my</p> <p>8 memory gives me just now.</p> <p>9 Q. Totally understand.</p> <p>10 Do you remember, location-wise, where</p> <p>11 that farthest trip would have been?</p> <p>12 A. No, I don't.</p> <p>13 Q. Do you have a list that you maintain of</p> <p>14 all the OCS runs you've been on?</p> <p>15 A. Not me. The people who re -- who takes</p> <p>16 all that information, so I am ready -- I can ask</p> <p>17 that at any time --</p> <p>18 Q. Sure.</p> <p>19 A. -- if I need.</p> <p>20 Q. Sure.</p> <p>21 Has there ever been a time since you've</p> <p>22 been at Mayo, that you can recall, where a heart</p> <p>23 that was transported on OCS was ultimately</p> <p>24 discarded and not transplanted?</p> <p>25 A. And not transplanted you mean?</p>

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<p>1 Q. Yes.</p> <p>2 A. Not in my cases.</p> <p>3 Q. In other cases that you're aware of at</p> <p>4 Mayo?</p> <p>5 A. I don't recall any.</p> <p>6 Q. Okay. You know --</p> <p>7 A. There may be. I don't recall.</p> <p>8 Q. Yeah. And you know that in the EXPAND</p> <p>9 study, almost one out of every five hearts that</p> <p>10 was transported on the OCS was discarded and not</p> <p>11 transplanted; right?</p> <p>12 MR. BRANTINGHAM: Foundation. You can</p> <p>13 answer.</p> <p>14 THE WITNESS: I can answer, yes.</p> <p>15 A. That study probably was done in the</p> <p>16 early stages of the research -- of the use of</p> <p>17 OCS.</p> <p>18 Q. My question was: Are you aware that in</p> <p>19 the study one out of every five hearts was</p> <p>20 discarded without being transplanted?</p> <p>21 A. I'm not aware in detail of that</p> <p>22 information, but I accept that may be the --</p> <p>23 Q. Yeah.</p> <p>24 A. -- the issue because you are -- you are</p> <p>25 saying that.</p>	<p>1 anything about the communication back to Mayo</p> <p>2 while you were in Idaho before leaving?</p> <p>3 A. I don't remember, but I -- what I can</p> <p>4 tell you that the usual procedure, typically,</p> <p>5 are the first surgeon, the main surgeon, does</p> <p>6 communicate with the base regarding what is the</p> <p>7 assessment of the heart, which is the crucial</p> <p>8 work we do there --</p> <p>9 Q. Yep.</p> <p>10 A. -- before going for the next steps.</p> <p>11 Q. Understood.</p> <p>12 So probably what happened is that Dr.</p> <p>13 Altarabsheh communicated back to Mayo; right?</p> <p>14 A. I assume that is the most probably</p> <p>15 thing that happened.</p> <p>16 Q. But you don't have any memory of that</p> <p>17 whatsoever; correct?</p> <p>18 A. I don't have that.</p> <p>19 Q. Okay. Do you have any memory of</p> <p>20 assessing this heart in Idaho?</p> <p>21 A. Yes, I do --</p> <p>22 Q. You do.</p> <p>23 A. -- have memory.</p> <p>24 Q. Okay. Tell me what your memory is.</p> <p>25 A. The heart on this case looked to us</p>
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<p>1 Q. On the OCS runs you've been on at Mayo,</p> <p>2 do you have the ability to communicate with Mayo</p> <p>3 while you're on the airplane?</p> <p>4 A. While on the airplane, no.</p> <p>5 Q. For this case, do you remember whether</p> <p>6 it was you or Dr. Altarabsheh who called back to</p> <p>7 Mayo after doing the initial assessment of the</p> <p>8 donor heart in Idaho?</p> <p>9 A. Usually the first person in charge, in</p> <p>10 other words the first surgeon --</p> <p>11 There are two surgeons going. One is</p> <p>12 primary and the other one is assistant. On this</p> <p>13 occasion, I was the assistant.</p> <p>14 Q. Yep.</p> <p>15 A. Because we rotate. Not for any kind of</p> <p>16 other reason.</p> <p>17 Q. Sure.</p> <p>18 A. On this occasion communication may have</p> <p>19 been done by my colleague, not me, because</p> <p>20 this -- the assistant usually -- usually do not</p> <p>21 communicate with the base for practical and --</p> <p>22 purposes and because the primary is the person</p> <p>23 who deals with that.</p> <p>24 Q. Would I be correct in assuming, based</p> <p>25 on your testimony, that you do not remember</p>	<p>1 absolutely a -- a good heart like we call it.</p> <p>2 There were no abnormalities that we have seen</p> <p>3 there in the donor site, meaning we assess</p> <p>4 different aspects of the heart, and after doing</p> <p>5 a meticulous assessment we take our decision of</p> <p>6 what is -- what we are going to inform to the</p> <p>7 base, basically how is the contractility, what</p> <p>8 are the -- what is the -- what are the filling</p> <p>9 pressures based on palpation, based on visual</p> <p>10 assessment, what are the coronary artery</p> <p>11 aspects, any lesions or any plaques or whatever,</p> <p>12 and what is the previous hemoglobin of the</p> <p>13 donor, which is a very important point for the</p> <p>14 OCS, and what is the situation we are, you know,</p> <p>15 experimenting in the dissection with the</p> <p>16 abdominal team if there is any significant blood</p> <p>17 loss or any problems. All those things we</p> <p>18 assess.</p> <p>19 Q. And so I understand that those are all</p> <p>20 things that you regularly would assess. Is it</p> <p>21 your testimony that you actually remember doing</p> <p>22 that in this case?</p> <p>23 A. I actually remember on this case that</p> <p>24 the heart looked, to me, independently what</p> <p>25 looks to my colleague -- I was there and I am</p>

5 (Pages 14 to 17)

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<p style="text-align: right;">Page 18</p> <p>1 also responsible as he is -- that this heart was 2 adequate and good for transplantation. 3 Q. All right. So -- 4 A. For use -- not transplanting -- for 5 retrieving and then using in a recipient. 6 Q. Sure. So that was about a year ago; 7 right? 8 A. Sorry? 9 Q. It was about a year ago. 10 A. Yes. 11 Q. How many OCS runs have you been on in 12 the last year, roughly? 13 A. Maybe 20, maybe -- 14 Q. All right. 15 A. -- 15, I don't know. 16 Q. Fifteen to 20 since then. 17 Can you remember all the hearts that 18 you've gone and retrieved since this one a year 19 ago? 20 A. I remember most of them, yes. 21 Q. Okay. So let's go back to this one 22 that you remember from a year ago. What did -- 23 Were the other surgeons from that 24 hospital in the operating room when you procured 25 the heart?</p>	<p style="text-align: right;">Page 20</p> <p>1 Q. What do you remember, since you have 2 all these memories of this particular heart a 3 year ago, what do you remember about the lungs? 4 MR. BRANTINGHAM: Object to the form of 5 the question. You can answer. 6 A. I -- I don't pay attention to lungs in 7 these cases. 8 Q. Why not? 9 A. Because I'm not involved in lung 10 procurement if I go for the heart. 11 Q. If there's a problem with the lungs, 12 wouldn't that be relevant to the question of 13 whether the heart was viable or suitable? 14 A. If it is a problem with oxygenation, 15 yes. Not with the lungs itself. I'm talking 16 about the function of the lungs at that time. 17 We didn't see any problems on that. 18 Q. You remember that. 19 A. Of course. I mean saturation is okay. 20 We didn't have any problem with that. 21 Q. What -- 22 A. If I should have any problem, I would 23 have recalled very clearly. 24 Q. What color was this heart? 25 A. Color?</p>
<p style="text-align: right;">Page 19</p> <p>1 A. Yes, I think so. 2 Q. What did they look like? 3 A. How they look like? 4 Q. Yeah. Males, females? 5 A. No, I can't remember that. 6 Q. Yeah. 7 A. I don't pay attention to those. 8 Q. Yeah. Do you remember who else was on 9 this OCS run with you other than Dr. 10 Altarabsheh? 11 A. It was Danielle the perfusionist. 12 Q. Who else? 13 A. It was Mike, -- 14 Q. Uh-huh. 15 A. -- the tech. 16 Q. Okay. 17 A. And that is our main. And it was 18 Salah, Dr. Salah. 19 Q. Okay. And that -- that's all you can 20 remember? 21 A. The persons, yeah. There was another 22 perfusionist, but I -- I can't recall who was 23 that. 24 Q. Male or female? 25 A. I can't recall that.</p>	<p style="text-align: right;">Page 21</p> <p>1 Q. Yeah. 2 A. Normal. 3 Q. What's a normal color? 4 A. Well it's different colors depending 5 the chamber. 6 Q. Describe this heart that you remember 7 from a year ago. 8 A. Okay. 9 Q. Describe it for me. What did it look 10 like? 11 A. Yes. No problem. 12 The ventricles are usually red -- how 13 do you say -- it's not super bright. It's a bit 14 soft red. 15 Q. Soft red? 16 A. Yes, something like that. 17 Q. Red in color? Soft red in color? 18 A. Soft red, the muscle. 19 Q. Okay. 20 A. So I should say normal, as the normal 21 description of the -- of the heart. 22 Q. I don't know what that means because 23 I'm not a cardiac surgeon. I want you to 24 describe it for me. All you've told me is that 25 the ventricles were soft red in color.</p>

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<p>1 A. Yes.</p> <p>2 Q. What other --</p> <p>3 What color were the atria?</p> <p>4 A. The atria was -- the right atrium is</p> <p>5 blue.</p> <p>6 Q. Okay.</p> <p>7 A. Blue. Strong blue.</p> <p>8 Q. Strong blue?</p> <p>9 A. I mean sorry about my -- I am --</p> <p>10 I don't have the fluency in the</p> <p>11 description of the colors, but it is -- it's not</p> <p>12 soft blue, it's more strong blue. Do you</p> <p>13 understand what I mean?</p> <p>14 Q. Yeah. You're describing what a normal</p> <p>15 heart would look like.</p> <p>16 A. Yes.</p> <p>17 Q. And you're claiming that not just I'm</p> <p>18 describing what a normal heart would look like,</p> <p>19 I can remember in my mind that this is what that</p> <p>20 heart looked like.</p> <p>21 A. Yes.</p> <p>22 Q. Okay. What else? What else about the</p> <p>23 appearance of the heart can you describe for us?</p> <p>24 A. Okay. The left atrium is also with a</p> <p>25 blue color --</p>	<p>1 Q. Uh-huh.</p> <p>2 A. There were no plaques here.</p> <p>3 The vessels coming out from the heart</p> <p>4 or reaching the heart, the aorta, the pulmonary</p> <p>5 artery. The pulmonary artery is yellowish</p> <p>6 because it has some -- usually some fat around.</p> <p>7 I have to say that there is fat around the heart</p> <p>8 usually, which is --</p> <p>9 Q. Uh-huh. Where?</p> <p>10 A. It is --</p> <p>11 Q. Don't just tell me usually. I'm</p> <p>12 talking about your memory of this specific heart</p> <p>13 that you claim you remember.</p> <p>14 A. Yeah. There is some --</p> <p>15 Q. Describe the fat.</p> <p>16 A. Yeah. The fat is over the pulmonary</p> <p>17 artery on the -- and on top of the right</p> <p>18 ventricular outflow tract and the -- close to</p> <p>19 the base of the aorta, which is the -- the --</p> <p>20 the root, a bit of fat.</p> <p>21 Q. A bit --</p> <p>22 Did you say a bit of fat?</p> <p>23 A. Yes.</p> <p>24 Q. Just a bit of fat.</p> <p>25 A. Yes, a bit.</p>
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<p>1 Q. Blue color. Okay. I'm with you.</p> <p>2 A. -- in the -- in the -- in the dome,</p> <p>3 which is the part that you can see.</p> <p>4 Q. Uh-huh.</p> <p>5 A. You don't see the other parts of the</p> <p>6 left atria --</p> <p>7 Q. Uh-huh.</p> <p>8 A. -- except the left outer appendage --</p> <p>9 Q. Okay.</p> <p>10 A. -- which is, you know, more light in</p> <p>11 the color.</p> <p>12 Q. Uh-huh. Light like what?</p> <p>13 A. Light -- I should say --</p> <p>14 Q. Like a lighter blue?</p> <p>15 A. No. No lighter blue. Lighter pink, to</p> <p>16 the pink side.</p> <p>17 Q. Got it. Okay.</p> <p>18 A. And then you see the coronaries and the</p> <p>19 epicardium and the surface of the heart --</p> <p>20 Q. Uh-huh.</p> <p>21 A. -- which are -- the color is, I should</p> <p>22 say, white/gray. White/gray.</p> <p>23 Q. Okay.</p> <p>24 A. If there are plaques, you see very</p> <p>25 clearly.</p>	<p>1 Q. Okay. Not fat like --</p> <p>2 A. No.</p> <p>3 Q. -- covering the whole heart.</p> <p>4 A. No, no, no. Definitely not.</p> <p>5 Q. No. Okay.</p> <p>6 Let me show you a picture of the heart.</p> <p>7 MR. BRANTINGHAM: Does it have a Bates</p> <p>8 number for the record?</p> <p>9 MR. THOMPSON: Let me see. Give me</p> <p>10 that back a second, doctor.</p> <p>11 THE WITNESS: Yeah.</p> <p>12 MR. THOMPSON: This is Bates No. 24948.</p> <p>13 THE WITNESS: Yes.</p> <p>14 Q. Does that look like the heart that you</p> <p>15 were just describing?</p> <p>16 A. This is the picture of what heart?</p> <p>17 Q. That's the picture of the heart that</p> <p>18 you're claiming you remember and --</p> <p>19 A. Okay.</p> <p>20 Q. -- are claiming was blue -- I think</p> <p>21 you'd said blue, the atria were blue. Show me</p> <p>22 where that heart's blue. Show me where that</p> <p>23 heart has just a bit of fat.</p> <p>24 MR. BRANTINGHAM: Object to the form,</p> <p>25 the multiple questions in a row, and object to</p>

7 (Pages 22 to 25)

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<p>1 foundation.</p> <p>2 MR. THOMPSON: What -- what is the</p> <p>3 foundation objection? I'm asking him to tell me</p> <p>4 where the blue is on that heart.</p> <p>5 MR. BRANTINGHAM: I don't think you --</p> <p>6 MR. THOMPSON: What's -- what's lacking</p> <p>7 in foundation?</p> <p>8 THE WITNESS: Okay.</p> <p>9 MR. BRANTINGHAM: I don't think you've</p> <p>10 established who took this picture, when, where</p> <p>11 it is.</p> <p>12 MR. THOMPSON: It's produced by you.</p> <p>13 MR. BRANTINGHAM: I understand.</p> <p>14 MR. THOMPSON: By you.</p> <p>15 MR. BRANTINGHAM: I know that.</p> <p>16 MR. THOMPSON: Yeah, the picture of</p> <p>17 this heart.</p> <p>18 MR. BRANTINGHAM: But you --</p> <p>19 I -- I know where it came from in that</p> <p>20 sense, but you're asking about a picture taken</p> <p>21 during a period of time.</p> <p>22 MR. THOMPSON: Yeah.</p> <p>23 MR. BRANTINGHAM: And you haven't asked</p> <p>24 him when that's from. You haven't -- you</p> <p>25 haven't established when it was taken, who took</p>	<p>1 doesn't reflect reality here.</p> <p>2 Q. What's the point of taking a picture of</p> <p>3 the heart in the operating room at the donor</p> <p>4 hospital, by the way? That's where this is.</p> <p>5 A. Yeah. What's the point?</p> <p>6 Q. Yeah. Why do you take a picture of it?</p> <p>7 A. To see the -- the size of the heart,</p> <p>8 the general aspect of the heart, but not analyze</p> <p>9 exactly the colors because the colors are not</p> <p>10 real here. I mean I see very clearly that this</p> <p>11 is not -- this is not the real aspect of the</p> <p>12 atriums, for example, the right atrium, you</p> <p>13 know.</p> <p>14 Q. Does that look like a heart that has a</p> <p>15 normal amount of fat to you?</p> <p>16 A. Yes.</p> <p>17 Q. Normal.</p> <p>18 A. Yes. Definitely.</p> <p>19 Q. Okay. I'll take that back.</p> <p>20 A. The amount of fat around the heart is</p> <p>21 variable. It doesn't reflect any impact on</p> <p>22 function or any impact on the suitability of the</p> <p>23 heart for being transplanted.</p> <p>24 Q. I appreciate that. I didn't ask any</p> <p>25 questions about whether fat affects suitability</p>
Page 27	Page 29
<p>1 it, and so forth.</p> <p>2 Q. Is this --</p> <p>3 Does this look --</p> <p>4 MR. BRANTINGHAM: That's the foundation</p> <p>5 objection.</p> <p>6 Q. Does this look like the heart that --</p> <p>7 MR. THOMPSON: Well that's not an</p> <p>8 objection to my question at all.</p> <p>9 MR. BRANTINGHAM: Okay. Well you asked</p> <p>10 for the explanation of the foundation objection.</p> <p>11 That's my explanation. The question -- or the</p> <p>12 objection to the question was --</p> <p>13 MR. THOMPSON: That makes no sense.</p> <p>14 MR. BRANTINGHAM: -- you asked him</p> <p>15 multiple questions. You shouted three -- two or</p> <p>16 three questions at him. Let him -- just let him</p> <p>17 answer the question.</p> <p>18 Q. Yeah. Okay. I'm going to ask you this</p> <p>19 question now. Is that, in your testimony under</p> <p>20 oath, consistent with a normal heart such that</p> <p>21 you just described?</p> <p>22 A. Yes, because on this picture it should</p> <p>23 be blue, this part, and it's not in the -- in</p> <p>24 the picture itself, you know. It should be more</p> <p>25 blue here. Whatever is seen in the picture, it</p>	<p>1 or whether fat affects function. I just asked</p> <p>2 you if that was a normal amount of fat in your</p> <p>3 opinion --</p> <p>4 A. Normal.</p> <p>5 Q. -- and you said it was.</p> <p>6 A. Absolutely. Yes.</p> <p>7 Q. Okay. Did you do predicted heart mass</p> <p>8 measurements on the recipient before you left</p> <p>9 Mayo to go get this heart?</p> <p>10 A. Say --</p> <p>11 Can you ask the question again?</p> <p>12 Q. Yeah. Well let me ask a prefatory</p> <p>13 question first. Size match is an important part</p> <p>14 of finding a suitable donor heart; right?</p> <p>15 A. Yes.</p> <p>16 Q. You don't want the heart to be too big</p> <p>17 and you don't want the heart to be too small;</p> <p>18 right?</p> <p>19 A. Yes.</p> <p>20 Q. Do you have sort of a general guideline</p> <p>21 about how much bigger or how much smaller you're</p> <p>22 willing to go?</p> <p>23 MR. BRANTINGHAM: Object to form.</p> <p>24 A. The attending surgeon is the person who</p> <p>25 deals with that decision-making, not me.</p>

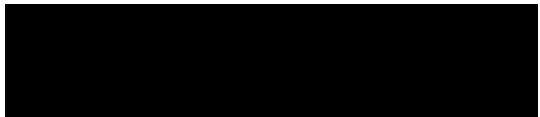
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Page 30	Page 32
<p>1 Q. Okay. So the attending physician would</p> <p>2 give guidelines as to how much bigger or smaller</p> <p>3 he's willing to accept for the donor heart?</p> <p>4 A. He knows in advance.</p> <p>5 Q. Knows in advance what the parameters</p> <p>6 are going to be?</p> <p>7 A. The echocardiogram.</p> <p>8 Q. For the donor or for the recipient?</p> <p>9 A. For both.</p> <p>10 Q. Okay. So he knows in advance what</p> <p>11 size --</p> <p>12 A. Yes.</p> <p>13 Q. -- the heart's going to be.</p> <p>14 A. Not only the echocardiogram, CT scan.</p> <p>15 CT.</p> <p>16 Q. Sure. But there's a ruler in those</p> <p>17 photographs. Because one of the things that's</p> <p>18 your job --</p> <p>19 A. Yes.</p> <p>20 Q. -- is to verify the size of the heart;</p> <p>21 right?</p> <p>22 A. To verify the size of the heart?</p> <p>23 Q. Size of the donor heart.</p> <p>24 A. No, that's not my -- my -- my --</p> <p>25 I see, I evaluate the heart. The heart</p>	<p>1 Q. What do you mean "according to the</p> <p>2 donor size?"</p> <p>3 A. I mean that if you have a donor -- a</p> <p>4 female donor of a height 157 and you have a</p> <p>5 heart that is severely enlarged for that donor,</p> <p>6 you have to raise the issue. But I am sure we</p> <p>7 will not be going in a run to procure a heart</p> <p>8 like that because we know the information in</p> <p>9 advance.</p> <p>10 Q. How big were you expecting this donor</p> <p>11 heart to be since you remember it?</p> <p>12 A. Yeah.</p> <p>13 MR. BRANTINGHAM: Object to the form of</p> <p>14 the question.</p> <p>15 A. I mean how big, what do you mean? You</p> <p>16 want me to tell you the centimeters from one</p> <p>17 side to the other, the height, all --</p> <p>18 Q. How about the weight?</p> <p>19 A. Huh?</p> <p>20 Q. How about the weight?</p> <p>21 A. The weight is related to the mass.</p> <p>22 Q. Okay. How big were you expecting it to</p> <p>23 be?</p> <p>24 A. I go for the echocardiogram before --</p> <p>25 before the procurement. That give me much more</p>
Page 31	Page 33
<p>1 has different sizes according to which donor it</p> <p>2 is. We just evaluate the heart in general</p> <p>3 terms. Of course, I agree that if the heart is</p> <p>4 enlarged, severely enlarged, there should be a</p> <p>5 problem and we should raise that issue.</p> <p>6 Q. Address that issue?</p> <p>7 A. If we see anything. Usually the -- the</p> <p>8 size of the heart comes with other things, it's</p> <p>9 not only the size. If you have a large heart</p> <p>10 with high pressures, filling pressures is one</p> <p>11 thing, and on top of that the size of the heart,</p> <p>12 they in different dimensions, varies according</p> <p>13 to the hemodynamic situation.</p> <p>14 Q. Okay. My question to you was: Is</p> <p>15 evaluating the size of the heart part of your</p> <p>16 job as one of the procuring surgeons?</p> <p>17 A. In part, yes, in the way that if I see</p> <p>18 any significant issue related to the size, I</p> <p>19 have to, you know, communicate that. Not me in</p> <p>20 this case. The primary surgeon has to do it.</p> <p>21 Q. Do you remember that this was a big</p> <p>22 heart?</p> <p>23 A. I remember it was not a big heart</p> <p>24 according to the donor, according to the donor's</p> <p>25 size.</p>	<p>1 information that -- the visual assessment about</p> <p>2 the mass.</p> <p>3 Q. My question -- my question is: How</p> <p>4 much were you expecting this heart to weigh?</p> <p>5 And if your answer is "I don't have any idea how</p> <p>6 much I was expecting the heart to weigh," then</p> <p>7 that's your answer.</p> <p>8 MR. BRANTINGHAM: Object to the form of</p> <p>9 the question.</p> <p>10 Q. But if you did have an expectation, I'd</p> <p>11 like to know.</p> <p>12 MR. BRANTINGHAM: Go ahead and you can</p> <p>13 just answer that question.</p> <p>14 A. I don't have the answer for that</p> <p>15 because, to my eyes and to my knowledge, this</p> <p>16 heart was within the normal limits for the donor</p> <p>17 and what we were, you know --</p> <p>18 Q. "For the donor," you mean for the</p> <p>19 donor's size?</p> <p>20 A. For the donor's size.</p> <p>21 Q. How big was the donor?</p> <p>22 A. I can't remember exactly the de -- the</p> <p>23 details.</p> <p>24 Q. How about just in general?</p> <p>25 A. Sorry?</p>

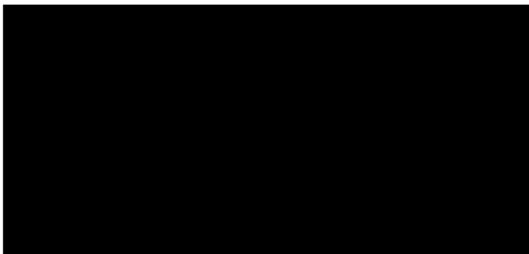
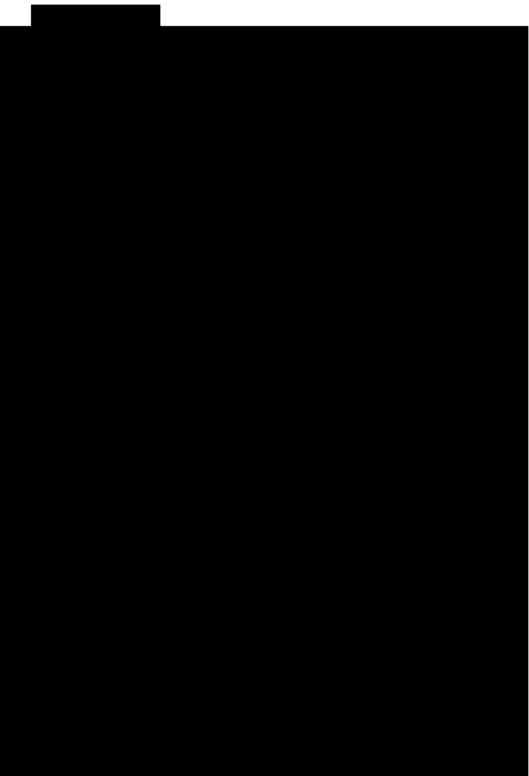
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<p style="text-align: right;">Page 34</p> <p>1 Q. Not even exactly. You said you can't</p> <p>2 remember exactly. I don't expect you to</p> <p>3 remember it to the centimeter and to the</p> <p>4 kilogram. But how about just in general? How</p> <p>5 big were you -- how big was this donor?</p> <p>6 A. I can't remember exactly. I have to go</p> <p>7 to the details.</p> <p>8 Q. I'm not asking you exactly. You're</p> <p>9 claiming that you remember this heart, and</p> <p>10 you're claiming that based on your memory you</p> <p>11 can say "That heart was the size that I expected</p> <p>12 it to be." And then I asked you, "Well what</p> <p>13 size were you expecting it to be?", and you</p> <p>14 said, "Well I don't know, it would depend on the</p> <p>15 size of the donor." And now I'm asking you:</p> <p>16 How big was the donor?</p> <p>17 A. Okay.</p> <p>18 MR. BRANTINGHAM: Object to the form of</p> <p>19 the question.</p> <p>20 A. I --</p> <p>21 MR. BRANTINGHAM: Go ahead. You can</p> <p>22 answer.</p> <p>23 A. My target is the heart. If I see the</p> <p>24 heart and I know in advance what the donor size</p> <p>25 is and I find the heart which is corresponding</p>	<p style="text-align: right;">Page 36</p> <p>1 A. About four -- four, five hundred grams.</p> <p>2 Q. I'm not asking -- I'm not asking</p> <p>3 exactly. How about closer to 200 grams or</p> <p>4 closer to 600 grams?</p> <p>5 A. Closer to 600 grams.</p> <p>6 Q. Closer to 600. You think that --</p> <p>7 Okay. Do you know that UNOS has a</p> <p>8 predicted heart mass calculator that's readily</p> <p>9 available?</p> <p>10 A. No, I'm not aware of that.</p> <p>11 Q. Do you know what UNOS is?</p> <p>12 A. Yes, I know.</p> <p>13 Q. What's UNOS?</p> <p>14 A. It's the organization that relates to</p> <p>15 the heart procurements and transplantation.</p> <p>16 </p> <p>17</p> <p>18</p> <p>19</p> <p>20 the heart mass at 192.46 grams, would you have</p> <p>21 any reason to disagree with that?</p> <p>22 A. The heart weighs --</p> <p>23 Q. Yeah.</p> <p>24 A. -- 183?</p> <p>25 Q. I'll just show it to you. This is from</p>
<p style="text-align: right;">Page 35</p> <p>1 and not raise my attention that the heart is</p> <p>2 abnormally big for the donor, I just pay</p> <p>3 attention to the heart and I know that.</p> <p>4 Q. Uh-huh.</p> <p>5 A. So I don't have to remember now exactly</p> <p>6 what the donor size was. I just remember that</p> <p>7 the heart was adequate --</p> <p>8 Q. How --</p> <p>9 A. -- based on -- on the donor.</p> <p>10 Q. How much, doctor, would you expect a</p> <p>11 heart to weigh from a donor who's 180</p> <p>12 centimeters tall and weighs 80 kilograms? Just</p> <p>13 roughly.</p> <p>14 A. A hundred and what?</p> <p>15 Q. A hundred and eighty-three centimeters</p> <p>16 tall and weighs 80 kilograms. How much should</p> <p>17 that heart weigh?</p> <p>18 A. I can't say in -- I have to --</p> <p>19 I should have to check details about</p> <p>20 weights of hearts.</p> <p>21 Q. I mean just you can't even give me an</p> <p>22 estimate? Two hundred grams? Six hundred</p> <p>23 grams?</p> <p>24 A. I can't say exactly.</p> <p>25 Q. I'm not asking --</p>	<p style="text-align: right;">Page 37</p> <p>1 the UNOS website.</p> <p>2 A. Yeah.</p> <p>3 Q. Is it standard at Mayo, do you know,</p> <p>4 for somebody to do a predicted heart mass</p> <p>5 calculation before you decide that an organ is</p> <p>6 of a suitable size for a patient? That's my</p> <p>7 first question.</p> <p>8 A. Okay. Do that question again, please.</p> <p>9 Q. Do you know if it is standard practice</p> <p>10 at the Mayo Clinic for somebody to do a</p> <p>11 predicted heart mass calculation before a</p> <p>12 decision is made that a heart is suitable for</p> <p>13 transplant?</p> <p>14 A. The trans --</p> <p>15 The attending surgeon is the person who</p> <p>16 does that.</p> <p>17 Q. Okay. So your answer is yes, it is</p> <p>18 standard for somebody to do that calculation,</p> <p>19 and in my experience, the attending surgeon is</p> <p>20 the one who does it.</p> <p>21 MR. BRANTINGHAM: Object to the form of</p> <p>22 the question.</p> <p>23 A. The form of the question is not the way</p> <p>24 I should take it, because the attending surgeon</p> <p>25 will not be meticulously mathematically</p>

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<p style="text-align: right;">Page 38</p> <p>1 calculating the mass or the weight or 2 whatsoever. The attending surgeon, in my 3 knowledge, although I am not doing that job, is 4 going to calculate if that heart would fit and 5 would be adequate for the recipient based on the 6 chest structure, the -- inside the mediastinum 7 cavity and things like that. 8 Q. Have you ever looked at Dr. 9 Villavicencio's operative report from this case? 10 A. I have read that, yes. 11 Q. Do you know -- 12 A. A long time ago. Yes. 13 Q. Do you know whether there was a 14 significant size mismatch between the donor 15 heart that you brought him and the space that he 16 had in Noah Leopold's chest? 17 MR. BRANTINGHAM: Object to foundation. 18 A. I don't recall that. 19 Q. If I told you that Dr. Villavicencio 20 documented that there was a significant size 21 mismatch, would that surprise you? 22 MR. BRANTINGHAM: Foundation. 23 Q. Because you remember this heart run. 24 A. No, it doesn't -- 25 MR. BRANTINGHAM: Hold on, hold on,</p>	<p style="text-align: right;">Page 40</p> <p>1 object to the form of the question and object to 2 foundation, and now you can answer. 3 A. I didn't say that this heart was 4 adequate size for the recipient. I did not say 5 that. What I said is that this heart was 6 adequate for transplantation to use functionally 7 and structurally and anatomically. 8 Q. Okay. So -- 9 A. I didn't mention anything regarding the 10 recipient. And -- and regarding your question, 11 I should be surprised? I -- I shouldn't be 12 surprised of anything. 13 Q. All right. So now I got to clear this 14 up. Is it part of your job to assess whether 15 the heart is an appropriate size for the 16 recipient or isn't it? 17 A. No. 18  19 20 21 22 23 24 25</p>
<p style="text-align: right;">Page 39</p> <p>1 hold on. Let him answer the question you asked, 2 please. 3 MR. THOMPSON: I'm going to ask my 4 question the way that I want to ask it, so 5 just -- 6 MR. BRANTINGHAM: Are you withdrawing 7 the first question you asked and then 8 immediately -- 9 MR. THOMPSON: Sure. 10 MR. BRANTINGHAM: -- started talking 11 over? 12 MR. THOMPSON: Sure. 13 MR. BRANTINGHAM: Okay. So now ask him 14 another question, please. 15 BY MR. THOMPSON: 16 Q. Given that you claim that you remember 17 this heart and you claim that it was a perfectly 18 appropriate size for this patient, would it 19 surprise you to know that Dr. Villavicencio 20 documented there was a significant size 21 mismatch? 22 MR. BRANTINGHAM: Object to the -- 23 A. I didn't say -- 24 MR. BRANTINGHAM: Hold on, doctor. Let 25 me just get -- make an objection. I'm going to</p>	<p style="text-align: right;">Page 41</p> <p>1  2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

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<p style="text-align: right;">Page 42</p> <p>1 [REDACTED] 2 [REDACTED] 3 [REDACTED] 4 [REDACTED] 5 [REDACTED] 6 [REDACTED] 7 [REDACTED] 8 [REDACTED] 9 [REDACTED] 10 [REDACTED] 11 [REDACTED] 12 [REDACTED] 13 [REDACTED] 14 [REDACTED] 15 [REDACTED] 16 [REDACTED] 17 [REDACTED] 18 [REDACTED] 19 [REDACTED] 20 [REDACTED] 21 [REDACTED] 22 [REDACTED] 23 [REDACTED] 24 [REDACTED] 25 [REDACTED]</p>	<p style="text-align: right;">Page 44</p> <p>1 [REDACTED] 2 [REDACTED] 3 [REDACTED] 4 [REDACTED] 5 Q. Great. So according to the UNOS 6 calculator, if anybody had bothered to use it, 7 what you would have been expecting to find when 8 you flew to Idaho was a heart that was about 192 9 grams; right? 10 MR. BRANTINGHAM: Object to foundation. 11 A. I never go to any run -- no ones I -- 12 that I know in my practice go to any run 13 thinking about any kind of weight or mass or 14 whatever. 15 Q. Sure. But you -- 16 A. So you -- 17 Q. -- have at least a general expectation 18 that that heart is going to be a specific size; 19 right? Because you know that that's part of 20 your job, we got to make sure that this heart is 21 a good size match for that recipient who is 22 waiting for it back at Mayo; right? 23 MR. BRANTINGHAM: Object to the form of 24 the question. You can answer. 25 A. Again, that decision is taken in</p>
<p style="text-align: right;">Page 43</p> <p>1 [REDACTED] 2 [REDACTED] 3 [REDACTED] 4 [REDACTED] 5 [REDACTED] 6 [REDACTED] 7 [REDACTED] 8 [REDACTED] 9 [REDACTED] 10 [REDACTED] 11 [REDACTED] 12 [REDACTED] 13 [REDACTED] 14 [REDACTED] 15 [REDACTED] 16 [REDACTED] 17 [REDACTED] 18 [REDACTED] 19 [REDACTED] 20 [REDACTED] 21 [REDACTED] 22 [REDACTED] 23 [REDACTED] 24 [REDACTED] 25 [REDACTED]</p>	<p style="text-align: right;">Page 45</p> <p>1 advance by the -- by the attending surgeon, and 2 when we go there, we have to assess the heart 3 specifically and give the report. 4 Q. Including the size? 5 A. Including if we see anything 6 disproportionate regarding the structure of the 7 heart, the make -- 8 Q. I'm not asking you about -- doctor -- 9 MR. BRANTINGHAM: Let him finish his 10 answer. 11 MR. THOMPSON: I'm going to interrupt 12 him if I want to interrupt him, because he's not 13 answering my question and we're going to get 14 answers to my questions. 15 THE WITNESS: Yes. 16 Q. I'm not asking you about structural 17 abnormalities of the heart. I'm asking -- 18 A. Well the size -- a bigger size than 19 normal in a -- in a donor is a real structural 20 modification. 21 Q. That you should be calling back and 22 alerting the team at Mayo about, right, if it's 23 there? 24 A. If it is a disproportionally bigger 25 heart regarding the structure of the heart, the</p>

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<p style="text-align: right;">Page 46</p> <p>1 anatomical structure of the heart.</p> <p>2 Q. I'm sticking --</p> <p>3 A. When the heart is failing, you have a</p> <p>4 gigantic bovine heart like this, you know.</p> <p>5 Q. Doctor, --</p> <p>6 A. Yes.</p> <p>7 Q. -- you got to listen to my questions.</p> <p>8 I'm talking about size.</p> <p>9 A. Yes.</p> <p>10 Q. I'm talking about size.</p> <p>11 A. I'm talking about size.</p> <p>12 Q. Let's stick with size. Let's not stick</p> <p>13 with function. Let's not talk about function.</p> <p>14 Enough.</p> <p>15 A. No. I'm talking about size.</p> <p>16 Q. Great.</p> <p>17 A. Structure. Structure. Not function.</p> <p>18 Size.</p> <p>19 Q. So --</p> <p>20 MR. BRANTINGHAM: Can we just take a</p> <p>21 moment here? So at the beginning of this you</p> <p>22 started by telling him that you weren't going to</p> <p>23 talk over each other. Right?</p> <p>24 MR. THOMPSON: Stop. Stop.</p> <p>25 MR. BRANTINGHAM: That's one of the</p>	<p style="text-align: right;">Page 48</p> <p>1 entitled to take the deposition however you want</p> <p>2 to.</p> <p>3 MR. BRANTINGHAM: According to the</p> <p>4 rules.</p> <p>5 MR. THOMPSON: We -- we have had this</p> <p>6 conversation enough times now.</p> <p>7 MR. BRANTINGHAM: I agree.</p> <p>8 MR. THOMPSON: Stop telling me how to</p> <p>9 conduct a deposition. If you have an objection,</p> <p>10 make it. I -- I don't want to have any more</p> <p>11 colloquy back and forth with you.</p> <p>12 MR. BRANTINGHAM: Please show us all</p> <p>13 the respect to allow people to speak and finish</p> <p>14 their sentences.</p> <p>15 MR. THOMPSON: Andrew --</p> <p>16 MR. BRANTINGHAM: That's all I'm</p> <p>17 asking.</p> <p>18 MR. THOMPSON: Andrew --</p> <p>19 MR. BRANTINGHAM: It's very reasonable.</p> <p>20 MR. THOMPSON: We are --</p> <p>21 MR. BRANTINGHAM: Please proceed.</p> <p>22 MR. THOMPSON: I am going to have</p> <p>23 answers to my questions, not to questions that</p> <p>24 I'm not being -- not that I'm not asking. And</p> <p>25 if he's not answering my question, I am going to</p>
<p style="text-align: right;">Page 47</p> <p>1 rules.</p> <p>2 MR. THOMPSON: Stop.</p> <p>3 MR. BRANTINGHAM: Is it your</p> <p>4 position --</p> <p>5 MR. THOMPSON: Stop.</p> <p>6 MR. BRANTINGHAM: -- that you get to</p> <p>7 interrupt the witness --</p> <p>8 MR. THOMPSON: Yes.</p> <p>9 MR. BRANTINGHAM: -- in the middle of</p> <p>10 his question?</p> <p>11 MR. THOMPSON: Yes, --</p> <p>12 MR. BRANTINGHAM: Okay.</p> <p>13 MR. THOMPSON: -- it is. If he's not</p> <p>14 answering my questions, I --</p> <p>15 MR. BRANTINGHAM: If he's --</p> <p>16 If you decide he's not answering your</p> <p>17 question, you're going to shout him down and</p> <p>18 then shout other questions at him?</p> <p>19 MR. THOMPSON: So I know that you don't</p> <p>20 agree with the way that I take depositions, but</p> <p>21 we've now been at this for three days. You know</p> <p>22 how I conduct a deposition.</p> <p>23 MR. BRANTINGHAM: I sure do.</p> <p>24 MR. THOMPSON: You don't have to like</p> <p>25 it. And when you take a deposition, you're</p>	<p style="text-align: right;">Page 49</p> <p>1 interrupt him and I'm going to redirect him to</p> <p>2 the question that I'm asking so that we can keep</p> <p>3 this day on track. And if you think that that's</p> <p>4 so abusive that you need to terminate the</p> <p>5 deposition, you know your remedy.</p> <p>6 MR. BRANTINGHAM: Uh-huh.</p> <p>7 MR. THOMPSON: We've been over this</p> <p>8 many times. Stop instructing me how to conduct</p> <p>9 a deposition.</p> <p>10 MR. BRANTINGHAM: Please go ahead.</p> <p>11 BY MR. THOMPSON:</p> <p>12 Q. Sticking with size, is it part of your</p> <p>13 job to have at least a rough idea of what size</p> <p>14 to expect when you take the donor heart out?</p> <p>15 A. Say -- say the question again.</p> <p>16 Q. It's a very simple question. And if</p> <p>17 you don't understand my question --</p> <p>18 A. No, no. I understand, but say that</p> <p>19 again for details.</p> <p>20 Q. Okay.</p> <p>21 A. Can you do that?</p> <p>22 Q. If you don't understand my question,</p> <p>23 will you let me know?</p> <p>24 A. Yes, I will let you know.</p> <p>25 Q. Thank you.</p>

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<p style="text-align: right;">Page 50</p> <p>1 My question is: Is it part of your job 2 to have at least a rough idea of what size heart 3 to expect when you get to the donor site? 4 A. Yes. 5 Q. As for this heart, you have no 6 recollection whatsoever as to even the rough 7 size that you were expecting; isn't that true? 8 A. I did have idea because I saw -- I saw 9 the echocardiogram, I've seen the CT scan, so I 10 do have a rough idea about the size of the 11 heart. Yes. 12 Q. But as for even roughly how much you 13 would have expected that heart to weigh, you 14 don't know; right? 15 A. Weight is not something that I care 16 about. What I care is about other most 17 important things that reflect function like, you 18 know, width of the -- of the -- 19 Let me finish. Because I'm -- 20 Q. You've answered my question. 21 A. No. Yeah, yeah, yeah, but you -- you 22 don't let me finish. You are trying to -- 23 You know, the way you are moving your 24 body, body language, don't allow me to finish. 25 So please let me finish.</p>	<p style="text-align: right;">Page 52</p> <p>1 the width of the wall of the left ventricle and 2 the other chambers, or the size of the chambers, 3 left atrium, left ventricle, right ventricle, 4 right atrium, pressures in the -- in the 5 pulmonary arteries and the -- and so on. So 6 that reflects the most important things. Weight 7 is a consequence of those things. If we have a 8 normal heart regarding the width of the -- of 9 the walls of the -- of the ventricle, I will not 10 expect at all an overweight heart. And that is 11 the crucial point, the technical point that is 12 much more important of the isolated weight. I 13 go to the more significant points. 14 Q. How thick were you expecting the left 15 ventricular wall to be? 16 A. Posterior wall less than 1.1 17 millimeters. 18 Q. One point one millimeters? 19 A. Sorry. Sorry. One centimeter point 20 one millimeter. Sorry. 21 Q. So left ventricular wall, you were 22 expecting it to be less than 1.1 centimeters? 23 A. One point two centimeters are the 24 maximum it should be. 25 Q. How about the septal wall?</p>
<p style="text-align: right;">Page 51</p> <p>1 Q. Doctor, you've answered my question. 2 And -- 3 A. I am answering your question. Let me 4 finish. 5 Q. Doctor, you've answered my question. 6 A. I didn't finish. 7 Q. Doctor -- 8 A. I didn't finish. 9 Q. Doctor, you've answered the question 10 that I asked you. The question I asked you was 11 as for what size -- what weight to expect, you 12 didn't have any idea and you said the weight 13 doesn't matter to me. So you've answered my -- 14 A. No. The weight -- 15 MR. BRANTINGHAM: Doctor -- 16 A. The weight -- the weight itself 17 isolated -- isolated is nothing that I am 18 extremely worried. I'm more worried about the 19 function, the width of the -- of the -- of the 20 wall of the ventricle, especially the right 21 ven -- the left ventricle. And based on that, I 22 could suppose if the weight of the heart may be 23 a problem -- may be a problem. I'm not 24 concentrated or obsessed about the weight of the 25 heart. I'm more obsessed and concentrated on</p>	<p style="text-align: right;">Page 53</p> <p>1 A. The septal wall I should be expecting 2 less than 14 millimeters. 3 Q. So 1.4 centimeters. 4 A. Yes. 5 Q. How about the right ventricular wall? 6 A. The right ventricular wall usually is 7 not relevant regarding the size unless you have 8 a hypertrophic. Usually it is less than .7 9 millimeters. Normal is .5, .6. 10 Q. Do you know what the ventricular wall 11 thickness was on this heart? 12 A. I don't recall exactly. I have to go 13 back to the -- to the -- to the numbers. 14 Q. Okay. Well if it was 1.8 15 centimeters -- let me just get out a 16 calculator -- that would be 67 percent larger 17 than you would have expected. 18 A. One point six -- eight millimeters 19 where? 20 MR. BRANTINGHAM: Wait for a question. 21 Q. Just -- 22 You got to stick with me. My 23 question's simple, and if you need to look at my 24 calculator, you can. You told me that you would 25 have expected the left ventricular wall to be</p>

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<p>1 1.2 centimeters at the most?</p> <p>2 A. Where? In the posterior I mentioned.</p> <p>3 Q. Well wherever the cardiac pathologist</p> <p>4 from the Mayo Clinic measured it. Would you</p> <p>5 assume --</p> <p>6 A. No, no, no, no, no, no, no.</p> <p>7 Q. Hold on.</p> <p>8 A. No, no, no, no.</p> <p>9 MR. BRANTINGHAM: Just hold on, doctor.</p> <p>10 Just let him get to an actual question here.</p> <p>11 Q. You asked me --</p> <p>12 Well I was answering your question.</p> <p>13 A. Okay.</p> <p>14 Q. You said where is the measurement.</p> <p>15 A. Yes.</p> <p>16 Q. Wherever the cardiac pathologist from</p> <p>17 the Mayo Clinic measured the wall. Now would</p> <p>18 you assume that a Mayo cardiac pathologist knows</p> <p>19 how to measure a ventricular wall?</p> <p>20 MR. BRANTINGHAM: Object to the form</p> <p>21 and the foundation.</p> <p>22 A. Okay.</p> <p>23 Q. Yeah. I mean if your answer is "I have</p> <p>24 no idea whether they know how to" --</p> <p>25 A. So you are telling --</p>	<p>1 did the measurement? Reply.</p> <p>2 Q. Well presumably after the heart</p> <p>3 catastrophically --</p> <p>4 A. Ah, that's it. That's the difference.</p> <p>5 Q. No. Hold on. Let me --</p> <p>6 MR. BRANTINGHAM: Just let him -- let</p> <p>7 him finish first. Let him finish, doctor. Let</p> <p>8 him finish.</p> <p>9 Q. I'd like you -- I'd like you to now to</p> <p>10 let me finish --</p> <p>11 MR. BRANTINGHAM: Yeah.</p> <p>12 Q. -- responding to you.</p> <p>13 The Mayo pathologist measured that</p> <p>14 heart when the heart that you and Dr.</p> <p>15 Altarabsheh brought back from Idaho, --</p> <p>16 A. Yeah.</p> <p>17 Q. -- and told them that this was a</p> <p>18 perfectly good heart, fell apart in his</p> <p>19 hands, --</p> <p>20 A. Uh-huh.</p> <p>21 Q. -- bled uncontrollably, had to be</p> <p>22 explanted from his body and led to the death of</p> <p>23 this 40-year-old man.</p> <p>24 A. Can I speak now?</p> <p>25 MR. BRANTINGHAM: No. That's not a</p>
Page 55	Page 57
<p>1 Q. Hold on. If you have --</p> <p>2 MR. BRANTINGHAM: Ask a -- ask a</p> <p>3 question.</p> <p>4 Q. I'm responding to your counsel's</p> <p>5 foundation objection.</p> <p>6 If you have no idea whether the Mayo</p> <p>7 cardiac pathologists know how to measure the</p> <p>8 thickness of the ventricular wall, that's a fine</p> <p>9 answer, too.</p> <p>10 MR. BRANTINGHAM: That's not the reason</p> <p>11 for the objection.</p> <p>12 A. So let --</p> <p>13 MR. BRANTINGHAM: Hold on, doctor.</p> <p>14 That's not the reason for the objection. If you</p> <p>15 want the objection explained, I'm happy to</p> <p>16 explain it.</p> <p>17 Q. Go ahead, doctor.</p> <p>18 A. Okay.</p> <p>19 MR. BRANTINGHAM: You can answer the</p> <p>20 question, doctor.</p> <p>21 A. So this is absolutely a basic thing.</p> <p>22 You are going to the point of the measurement of</p> <p>23 the Mayo pathologist. Are you?</p> <p>24 Q. Yeah.</p> <p>25 A. Okay. When did the Mayo pathologist</p>	<p>1 question.</p> <p>2 Q. Is that a -- is that a full enough</p> <p>3 answer to my question for you?</p> <p>4 MR. BRANTINGHAM: That's --</p> <p>5 Q. Is that a full enough answer to your</p> <p>6 question?</p> <p>7 MR. BRANTINGHAM: Hang on a second.</p> <p>8 A. No.</p> <p>9 MR. BRANTINGHAM: So is that a real</p> <p>10 question for this witness, Brandon, or are you</p> <p>11 just harassing the witness?</p> <p>12 MR. THOMPSON: Okay. Now -- you're</p> <p>13 right. We're going to go on to a question.</p> <p>14 THE WITNESS: Okay.</p> <p>15 Q. Okay.</p> <p>16 A. I --</p> <p>17 Q. Hold on. Hold on. We're going to go</p> <p>18 on --</p> <p>19 MR. BRANTINGHAM: Just let him ask a</p> <p>20 question.</p> <p>21 Q. We're going to go on to a question --</p> <p>22 A. I mean if I -- if I cannot say</p> <p>23 anything --</p> <p>24 MR. BRANTINGHAM: No, no, no. Doctor,</p> <p>25 just -- just --</p>

15 (Pages 54 to 57)

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<p style="text-align: right;">Page 58</p> <p>1 A. This is a crucial -- 2 MR. BRANTINGHAM: Hang on. 3 Q. Doctor -- 4 A. This is a crucial point. 5 MR. BRANTINGHAM: Here's a 6 suggestion -- 7 A. It is a crucial point. 8 MR. BRANTINGHAM: Here's a suggestion. 9 Why don't we -- we've been going for an hour. 10 Your next witness is here. 11 MR. THOMPSON: Oh, we're going to be 12 here a long time. 13 MR. BRANTINGHAM: I suggest we take a 14 short break in that case and talk about what 15 your expectations are for time, because you've 16 got two more witnesses here today. 17 MR. THOMPSON: Yeah. I understand 18 that. So we can go off the record. 19 THE WITNESS: Okay. Off the record. 20 (Recess taken from 10:06 a.m. to 10:15 21 a.m.) 22 THE VIDEOGRAPHER: We're on video. 23 THE REPORTER: We're on the record. 24 BY MR. THOMPSON: 25 Q. Doctor, I'm going to try really hard to</p>	<p style="text-align: right;">Page 60</p> <p>1 You said, towards the beginning of your 2 deposition, that the reason that you were 3 recruited here is because Mayo was trying to 4 increase their transplant activity. Do you 5 remember testifying to that? 6 A. That's my understanding. I cannot 7 reassure them because it was not my -- that's 8 what I heard that I understand. 9 Q. Got it. Are you talking about 10 specifically trying to increase the heart 11 transplant activity? 12 A. Heart and lung. 13 Q. Any idea why that would be? 14 A. I -- 15 No ideas, but I -- I -- I assume that 16 they -- they -- it's a big institution 17 prepared -- it's number one in the world, so is 18 prepared to, you know, to do more practices 19 in -- to patients in several aspects. 20 Q. When you -- 21 A. More -- more care. 22 Q. When you say "number one in the world," 23 what do you mean, number one in the world in 24 what? 25 A. That's what I read in the magazines is</p>
<p style="text-align: right;">Page 59</p> <p>1 ask simple, straightforward questions. Will you 2 let me know if you don't feel like you can give 3 a simple answer to my question? 4 A. Right. 5 Q. Will you do that? 6 You have to answer my question. 7 A. Yes, I can -- I can give you -- 8 Q. Will you let me know if you don't think 9 that you can give a simple answer to what I 10 think is a simple question? 11 A. Okay. I will. 12 Q. Okay. And will you try really hard to 13 limit yourself to answering my questions and 14 wait for me to ask then another question? 15 A. I will try, depending on the content. 16 Q. I appreciate that. And I'm going to 17 try really hard for us to not get in a fight 18 back a forth with one another, and I'm letting 19 myself get into that, too, and it's not super 20 productive. 21 A. It's part of the job. 22 Q. So -- 23 A. I understand. 24 Q. All right. Let's shift gears and try 25 to turn the temperature down here a little bit.</p>	<p style="text-align: right;">Page 61</p> <p>1 number one in the world. 2 Q. Just in general? 3 A. In general. Yeah. 4 Q. Got it. 5 The heart transplant volume here at 6 Mayo is actually quite a bit lower than many 7 other institutions in the United States; is it 8 not? 9 A. A bit lower, yeah. It shouldn't be 10 significantly lower. 11 Q. Okay. And it's your understanding that 12 Mayo is trying to increase that volume. 13 A. That's my understanding. 14 Q. Do you remember noticing anything about 15 this heart, at any point during the transport, 16 that would have made you think that doesn't look 17 like the most robust heart? 18 A. No, I -- I don't remember anything at 19 all that it didn't make it a good heart, robust 20 or whatever. Yes. 21 Q. Do you have any recollections of what 22 happened during the flight? 23 A. There is usually a table recorded of 24 what happens during the flight. 25 Q. Yep. And we've got that.</p>

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<p style="text-align: right;">Page 62</p> <p>1 My question to you is: Do you have</p> <p>2 specific memories of anything that happened</p> <p>3 during the flight?</p> <p>4 A. I do have specific memory that the</p> <p>5 flight was smooth, the transport of the heart</p> <p>6 was smooth in the way -- when I say "smooth"</p> <p>7 means that nothing within -- outside the normal</p> <p>8 limits happened.</p> <p>9 Q. It was uneventful.</p> <p>10 A. Sorry?</p> <p>11 Q. Uneventful would maybe be another way</p> <p>12 of putting it.</p> <p>13 A. You can call it like that, yes.</p> <p>14 Q. There has been some indication in this</p> <p>15 case that you and Dr. Altarabsheh were sleeping</p> <p>16 for most of the flight. Do you remember that?</p> <p>17 A. I don't remember that, but it happens.</p> <p>18 Q. Wouldn't be unusual for you to be</p> <p>19 sleeping for most of one of these flights?</p> <p>20 A. Say that again.</p> <p>21 Q. It would not be unusual for you to be</p> <p>22 sleeping during most of one of these flights.</p> <p>23 Is that what you're saying?</p> <p>24 A. It would not be unusual to be sleeping</p> <p>25 part of the flight. I shouldn't say the whole</p>	<p style="text-align: right;">Page 64</p> <p>1 compared to the last sample there may be a</p> <p>2 rising, but what kind of rising. A step rising</p> <p>3 and a trend continues in the stepping up, that</p> <p>4 means something. A raise of a lactate within</p> <p>5 the expected amount shouldn't be something that</p> <p>6 I could -- they may communicate or they may not.</p> <p>7 Q. Understood.</p> <p>8 What would be the expected amount for</p> <p>9 the lactate to rise?</p> <p>10 A. It is the common practice if the</p> <p>11 lactate goes above five in a -- you know, and</p> <p>12 the trend is going up from there, it's not --</p> <p>13 5.01 is something that you have to be -- alert</p> <p>14 this heart is not going. If the step rise, the</p> <p>15 trend, continues going up, a problem. On top of</p> <p>16 that there is another consideration to take into</p> <p>17 account if the lactate has two samples, arterial</p> <p>18 and venous. If the heart is consuming lactate</p> <p>19 and not producing lactate, that's good.</p> <p>20 Q. Yep.</p> <p>21 A. If the heart is producing lactate and</p> <p>22 there is a step rise continues and consistent,</p> <p>23 that may put the balance against that that heart</p> <p>24 should be appropriate to be used.</p> <p>25 Q. Understood.</p>
<p style="text-align: right;">Page 63</p> <p>1 flight. Maybe for awhile, then I wake again,</p> <p>2 speak with the people, having some, you know, a</p> <p>3 drink or whatever.</p> <p>4 Q. A drink like -- like a Coke?</p> <p>5 A. Yeah. No wine, no.</p> <p>6 Q. Probably not a wine.</p> <p>7 A. No. There is no wine there. No, no.</p> <p>8 Only cola.</p> <p>9 Q. Yeah. All right. Do you remember</p> <p>10 there being any conversations about the lactates</p> <p>11 while you were on the flight?</p> <p>12 A. Not at all. I remember, as I said, it</p> <p>13 was smooth transport. I don't remember</p> <p>14 anything.</p> <p>15 Q. Would it be typical for the OCS</p> <p>16 specialists to tell either you or Dr.</p> <p>17 Altarabsheh about the lactates during the</p> <p>18 flight?</p> <p>19 A. If there is anything significant to</p> <p>20 communicate regarding lactates, for sure they</p> <p>21 would be, you know, telling us or warning us.</p> <p>22 Q. Would a rising lactate be the sort of</p> <p>23 thing that would rise to the level of being</p> <p>24 significant enough to communicate it to you?</p> <p>25 A. Depending the rising. Rising means</p>	<p style="text-align: right;">Page 65</p> <p>1 Once the airplane landed in Rochester,</p> <p>2 somebody had to alert the team back at Mayo that</p> <p>3 the plane was safely on the ground; right?</p> <p>4 A. Yes.</p> <p>5 Q. I assume that was not you.</p> <p>6 A. No.</p> <p>7 Q. Is there another assessment of the</p> <p>8 heart that's done at that point in time by you</p> <p>9 and/or Dr. Altarabsheh?</p> <p>10 A. We assess the heart visually during the</p> <p>11 flight, at the end of the flight, in many</p> <p>12 occasions visually. The samples are taken by</p> <p>13 the tech. They let us know, as I said before,</p> <p>14 if there is anything of consideration. Usually</p> <p>15 anyway they take -- they tell us if we are, you</p> <p>16 know, awake, as you said. Oh, because we ask,</p> <p>17 usually, we ask what are the lactates, how are</p> <p>18 things going, any issues or whatever. There's</p> <p>19 another important point which is, you know, the</p> <p>20 aspect of that, what is the other, you know,</p> <p>21 parameters. So it's all in -- in a conjunction.</p> <p>22 It's not -- we don't have to focus on the --</p> <p>23 only on the lactates.</p> <p>24 Q. Do you remember going to the operating</p> <p>25 room at Mayo with this heart?</p>

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<p style="text-align: right;">Page 66</p> <p>1 A. Yes.</p> <p>2 Q. What do you remember about that?</p> <p>3 A. Getting into the OR, putting the</p> <p>4 machine in there. I mean not me, I mean</p> <p>5 technician being with the team there. And</p> <p>6 there -- there was nothing that I recall that</p> <p>7 was raising the attention of anything not going</p> <p>8 well.</p> <p>9 Q. Were you still there --</p> <p>10 Well who removes the heart from the OCS</p> <p>11 machine?</p> <p>12 A. The attending surgeon or the fellow</p> <p>13 with the attending surgeon.</p> <p>14 Q. Do you remember which of them did that</p> <p>15 in this case?</p> <p>16 A. I don't remember. Usually -- usually</p> <p>17 the attending surgeon is there and the -- maybe</p> <p>18 the fellow assist or whatever.</p> <p>19 Q. How could -- how could the attending</p> <p>20 surgeon or the fellow remove the heart from the</p> <p>21 OCS machine without breaking sterility?</p> <p>22 A. Because the box is sterile inside.</p> <p>23 Where the heart is located in the box, the box</p> <p>24 is sterile. And the box is closed with a top,</p> <p>25 all is sterile inside the box.</p>	<p style="text-align: right;">Page 68</p> <p>1 sterile, taking the heart, sterile, from the</p> <p>2 machine, taking in sterile condition to the back</p> <p>3 table, from the back table to -- or directly to</p> <p>4 the field.</p> <p>5 Q. So the surgeon -- the attending surgeon</p> <p>6 comes out of the sterile field to the machine</p> <p>7 and then takes the heart out?</p> <p>8 A. No. He's sterile. He's sterile moving</p> <p>9 in the OR.</p> <p>10 Q. Yep.</p> <p>11 A. You can be sterile moving in the OR.</p> <p>12 Q. Uh-huh.</p> <p>13 A. If no one touch you, whatever, you</p> <p>14 still sterile. And you can get -- the door --</p> <p>15 the lid is open.</p> <p>16 Q. Understood.</p> <p>17 A. Everything's open. Someone opens for</p> <p>18 him.</p> <p>19 Q. Yep.</p> <p>20 A. The unsterile part someone opens for</p> <p>21 him, and he -- when the lid is open, he can</p> <p>22 touch -- the lid comes with a little thing</p> <p>23 around and the heart is exposed.</p> <p>24 Q. I understand.</p> <p>25 A. He can go and grab it, he or anyone.</p>
<p style="text-align: right;">Page 67</p> <p>1 Q. Sure. The inside of the box is</p> <p>2 sterile, but help me understand this. So the</p> <p>3 machine gets wheeled into the operating room;</p> <p>4 right?</p> <p>5 A. Yes.</p> <p>6 Q. But the -- the machine doesn't go</p> <p>7 within the sterile field; does it?</p> <p>8 A. No, no, no, no.</p> <p>9 Q. Okay.</p> <p>10 A. We --</p> <p>11 Q. No. Just -- just answer my question.</p> <p>12 Sorry.</p> <p>13 A. Yes.</p> <p>14 Q. I'm going through this.</p> <p>15 A. Yeah, yeah, yeah, yeah, yeah.</p> <p>16 Q. So the machine is outside the sterile</p> <p>17 field.</p> <p>18 A. Yeah.</p> <p>19 Q. Somebody's got to get the heart out of</p> <p>20 the machine that is outside the sterile field;</p> <p>21 right?</p> <p>22 A. Take the machine -- the heart out of</p> <p>23 the machine. Someone has to take out the</p> <p>24 heart -- they take the heart out of the machine,</p> <p>25 yes. That somebody is the attending surgeon,</p>	<p style="text-align: right;">Page 69</p> <p>1 Q. Yep.</p> <p>2 A. Anyone --</p> <p>3 Q. Anyone else who's sterile.</p> <p>4 A. Sterile.</p> <p>5 Q. Yep.</p> <p>6 A. I mean "anyone" means another surgeon.</p> <p>7 It wouldn't be anyone.</p> <p>8 Q. Yep.</p> <p>9 Who removes the heart physically?</p> <p>10 Because the heart itself is attached to the --</p> <p>11 it's cannulated to the machine; right?</p> <p>12 A. Yes.</p> <p>13 Q. Does --</p> <p>14 The attending surgeon decannulates it?</p> <p>15 A. Yes.</p> <p>16 Q. Are you usually there when that</p> <p>17 happens?</p> <p>18 A. Not always, but oftentimes.</p> <p>19 Q. Do you remember if you were there when</p> <p>20 this heart was decannulated from the machine?</p> <p>21 A. I remember that I was there, yes.</p> <p>22 Q. Do you remember the heart being</p> <p>23 ecchymotic?</p> <p>24 A. Not -- I -- I --</p> <p>25 Usually when the -- the door opens,</p>

18 (Pages 66 to 69)

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<p>1 the -- the attending surgeon goes close. I am 2 at a distance. So fine details of the heart I 3 cannot say about this heart or other hearts, 4 fine detail. I have to be -- because I use 5 glasses of my distance, I have to be in -- 6 within the -- the distance of the glasses -- 7 Q. Yep. 8 A. -- to make a proper testimony of any 9 details that you are asking about. 10 Q. Understood. 11 So the answer to my question was "No, I 12 didn't notice it was ecchymotic." 13 A. No, I didn't notice because I -- not -- 14 not because I was at the distance and I saw it 15 was not ecchymotic, I am not aware because I 16 couldn't have the ability -- 17 Q. Yep. 18 A. -- to see details. 19 Q. Understood. 20 I'm showing you page 1879 of the 21 medical record. This is a note from Dr. 22 Rosenbaum. 23 A. Yeah. 24 Q. And I'm going to read this to you and 25 then ask you a question about it. "An</p>	<p>1 For sure I didn't appreciate any 2 hematoma or significant hematoma because I saw 3 the heart through the box. It is transparent, 4 although it's not perfect, because you have to 5 open the lid, open the little thing that is 6 around, and then have a look in detail to the 7 heart. But for sure there was not a significant 8 hematoma, so you have to ask Dr. Rosenbaum that 9 question. 10 Q. Understood. 11 All right. At some point you obviously 12 left the operating room; right? 13 A. Yeah. 14 Q. Do you remember at what point in the 15 procedure you would have left the operating 16 room? 17 A. Yes. Not exactly, but very soon after 18 the heart went to the field, so -- 19 Q. Because at that point your job's done. 20 A. In certain way, yes. If I want to 21 stay, I can stay. If I want to scrub in the 22 case, I can. But not in this case, I -- I opted 23 not to. 24 Q. Uh-huh. Pretty late at night and you 25 probably wanted to go home and go to bed, I'm</p>
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<p>1 intra-myocardial hematoma was appreciated as the 2 heart was supported on OCS." Do you see what I 3 just read? 4 A. Yes. 5 Q. Did you appreciate an intra-myocardial 6 hematoma while the heart was being supported on 7 OCS? 8 A. No, I don't. I didn't. 9 Q. Do you have any explanation for -- 10 A. Yes. 11 Q. -- that passage in the medical record? 12 A. I have a -- 13 MR. BRANTINGHAM: Object to foundation. 14 A. This phrase was written by Dr. -- 15 Q. Rosenbaum. 16 A. -- Rosenbaum. Dr. Rosenbaum was not 17 there. 18 Q. Yep. 19 A. Dr. Rosenbaum is a cardiologist. Dr. 20 Rosenbaum may write notes based on what he 21 believes or he heard or what he was told or 22 whatever. So this question has to go to Dr. 23 Rosenbaum, not to me. 24 Q. Yep. 25 A. I haven't seen any --</p>	<p>1 guessing. 2 A. Yes. Most of the times that's what we 3 do. 4 Q. Yep. 5 Okay. At some point you found out that 6 that heart that you had brought from Idaho had 7 not been able to be transplanted; right? 8 A. Say that again. Sorry. 9 Q. At some point in time you found out 10 that that heart that you had brought back from 11 Idaho was not able to be successfully 12 transplanted; right? 13 A. Well we saw the final result. 14 Q. You were contacted by Dr. Villavicencio 15 or somebody else in the operating room while the 16 case was still going on; right? 17 A. You mean after I left? 18 Q. Yeah. 19 A. No. I was -- 20 I don't recall to be -- being contacted 21 by Dr. Villavicencio or someone else. 22 Q. You don't recall anybody contacting you 23 while the case was still going on and asking you 24 questions about the lactate? 25 A. I don't recall any.</p>

19 (Pages 70 to 73)

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<p>1 Q. You're aware that there are a series of</p> <p>2 text messages that indicate that that is exactly</p> <p>3 what happened; right?</p> <p>4 A. I'm not aware of those texts.</p> <p>5 Q. Okay. You --</p> <p>6 You've never heard anything about any</p> <p>7 text messages in this case?</p> <p>8 A. No, I didn't.</p> <p>9 Q. Okay. There are text messages in this</p> <p>10 case that indicate that either you or Dr.</p> <p>11 Altarabsheh or both of you told Dr.</p> <p>12 Villavicencio that the lactates were either bad</p> <p>13 or terrible. Is this the first you're hearing</p> <p>14 of that?</p> <p>15 A. This is the first time I'm hearing</p> <p>16 that, --</p> <p>17 Q. Okay.</p> <p>18 A. -- because they were not.</p> <p>19 Q. So as for how somebody would have</p> <p>20 gotten the idea that the surgeons, being you and</p> <p>21 Dr. Altarabsheh, were telling V that the</p> <p>22 lactates were terrible, you have no idea where</p> <p>23 they would have come up with that.</p> <p>24 A. I have no idea and I -- I challenge</p> <p>25 that. But that word "terrible" is absolutely</p>	<p>1 before are going on.</p> <p>2 Q. I --</p> <p>3 A. And also we follow the cases on the</p> <p>4 Epic.</p> <p>5 Q. When is the first time you can say</p> <p>6 definitively that you found out that this case</p> <p>7 didn't go as planned?</p> <p>8 A. The day after.</p> <p>9 Q. The day after being later that same</p> <p>10 day, or the day after being in that --</p> <p>11 It was the early morning hours of the</p> <p>12 30th. Was it later on the 30th or not until the</p> <p>13 31st?</p> <p>14 A. No, no. Later when I --</p> <p>15 Usually I -- I go to Mayo the day</p> <p>16 after. I mean day after. If it is late at</p> <p>17 night, I go to bed, but then I go to Mayo.</p> <p>18 Q. Later that same day.</p> <p>19 A. Later that same day.</p> <p>20 Q. And at --</p> <p>21 And you found out later that same day</p> <p>22 that things hadn't gone as planned with this</p> <p>23 case.</p> <p>24 A. Yes.</p> <p>25 Q. How did you find that out?</p>
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<p>1 unacceptable. I mean terrible is something that</p> <p>2 is terrible, and that -- no.</p> <p>3 Q. Well that's probably somebody's</p> <p>4 interpretation. But the point is, you don't</p> <p>5 remember getting any contact whatsoever while</p> <p>6 this case was still going on.</p> <p>7 A. No.</p> <p>8 Q. When is the next time you can recall</p> <p>9 having any contact about Noah Leopold's case?</p> <p>10 A. Contact whom with?</p> <p>11 Q. From anybody. From the time you --</p> <p>12 You left the operating room on the</p> <p>13 early morning hours of the 30th after you had</p> <p>14 delivered this heart. You don't remember for</p> <p>15 sure what you did, but you probably went home</p> <p>16 and went to bed because it was the middle of the</p> <p>17 night.</p> <p>18 A. Yeah. Yeah, yeah.</p> <p>19 Q. When's --</p> <p>20 When did you find out that --</p> <p>21 A. Well --</p> <p>22 Q. -- things hadn't gone as expected?</p> <p>23 A. Usually, I don't recall exactly on this</p> <p>24 case, but usually we make comments with my</p> <p>25 colleague Salah about how the cases from the day</p>	<p>1 A. I lamented that, of course.</p> <p>2 Q. Well no, no, no.</p> <p>3 Who told you?</p> <p>4 A. No. I go to the Epic. Epic is the</p> <p>5 record.</p> <p>6 Q. The electronic medical record.</p> <p>7 So nobody contacted you. You found out</p> <p>8 that --</p> <p>9 The next thing that you can remember</p> <p>10 finding out about this heart was when you went</p> <p>11 on Epic and did what?</p> <p>12 A. I usually check the patients, and I</p> <p>13 checked this one as well.</p> <p>14 Q. What would you have looked at?</p> <p>15 A. I look at the op -- op notes. I look</p> <p>16 at the -- the reports from the cardiologist, the</p> <p>17 transplant team, or the intensive care people.</p> <p>18 Q. Is it your testimony that you actually</p> <p>19 remember looking at the operative note from this</p> <p>20 case later on in the day on the 30th?</p> <p>21 A. I think so, yes.</p> <p>22 Q. And what did you learn?</p> <p>23 A. Sorry. What did I --</p> <p>24 Q. What did you learn when you looked at</p> <p>25 the operative report?</p>

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<p style="text-align: right;">Page 78</p> <p>1 A. On this case?</p> <p>2 Q. Yeah.</p> <p>3 A. What I learned? What I learned on this</p> <p>4 case?</p> <p>5 Q. Yes.</p> <p>6 A. I learned that this disgraceful event</p> <p>7 is the first that I heard happen in the world</p> <p>8 and is the probably, no -- probably, no --</p> <p>9 should say in my understanding, no one knows</p> <p>10 about this event happening anywhere, anyplace.</p> <p>11 And the reason why I say that is because in</p> <p>12 Prague there was a, you know, you -- there was a</p> <p>13 transplant meeting, it's a well-known transplant</p> <p>14 meeting that takes once a year, and there</p> <p>15 were -- it came the opportunity that I raised my</p> <p>16 voice. Went to the -- with a microphone in the</p> <p>17 middle of a big audience, big audience with the</p> <p>18 most remarkable surgeons in the world,</p> <p>19 cardiologists and so on in the transplant</p> <p>20 community, and I made a comment about this case.</p> <p>21 Of course, I -- it was shortened, the</p> <p>22 explanations, but highlighting that the -- the</p> <p>23 procurement, transport, OCS run and so on, and</p> <p>24 the timings on the OCS and so on and so on have</p> <p>25 been uneventful, and what happened next. And I</p>	<p style="text-align: right;">Page 80</p> <p>1 but usually maybe before midday.</p> <p>2 Q. Uh-huh.</p> <p>3 And -- and again, you're pretty sure</p> <p>4 that you read the operative report that day.</p> <p>5 A. Not very sure about the op report. But</p> <p>6 there -- there may be something I read about</p> <p>7 that or --</p> <p>8 Sometimes the op -- the operating notes</p> <p>9 are not written immediately.</p> <p>10 Q. Yeah.</p> <p>11 A. I don't remember if I -- it was</p> <p>12 immediately when I arrived that I went to the op</p> <p>13 note, but there -- there is another part of the</p> <p>14 op note that is written quickly, which is the</p> <p>15 brief -- brief op note.</p> <p>16 Q. Uh-huh.</p> <p>17 A. That usually is always written.</p> <p>18 Q. Okay. And you think that that would</p> <p>19 have been available by midday on the --</p> <p>20 A. No. I'm not saying midday, because I</p> <p>21 don't know if I -- meaning when I arrive I</p> <p>22 immediately went to Epic. Maybe I was still --</p> <p>23 6:00 o'clock p.m. or 8:00 o'clock or whatever</p> <p>24 before I left home -- to home I went to Epic. I</p> <p>25 don't recall that.</p>
<p style="text-align: right;">Page 79</p> <p>1 asked specifically, to that big audience, did</p> <p>2 anyone at all heard about something like this</p> <p>3 happening and if anyone can give any inputs</p> <p>4 about what would be the reason for this to</p> <p>5 happen. And their reply to that was silence.</p> <p>6 There was no one commenting anything. And after</p> <p>7 seconds of silence, the chair said, "Okay.</p> <p>8 Based on that, there is no comments on that.</p> <p>9 Let's go for another topic."</p> <p>10 Q. Would I be correct in assuming then</p> <p>11 that you don't have an explanation for what</p> <p>12 happened --</p> <p>13 A. No.</p> <p>14 Q. -- in this operating room?</p> <p>15 A. No.</p> <p>16 Q. Do you even have speculation about what</p> <p>17 may have happened?</p> <p>18 A. I don't.</p> <p>19 Q. We know that the heart got to the</p> <p>20 operating room at about 3:00 o'clock in the</p> <p>21 morning, and you said that you would have</p> <p>22 probably went home and went to bed.</p> <p>23 When do you think you would have come</p> <p>24 back to the hospital?</p> <p>25 A. I can't remember that day what time,</p>	<p style="text-align: right;">Page 81</p> <p>1 Q. Uh-huh.</p> <p>2 Can you recall ever talking to Dr.</p> <p>3 Villavicencio about this case?</p> <p>4 A. No.</p> <p>5 Q. Do you think you did and you just can't</p> <p>6 remember details, or you don't think you've ever</p> <p>7 talked to him about it?</p> <p>8 A. I don't remember talking about this</p> <p>9 case specifically. We -- I --</p> <p>10 I remember hearing talks about chats</p> <p>11 about what happened, what -- what are the next</p> <p>12 steps, not specifically what happened in this</p> <p>13 event. I mean what happened afterwards with</p> <p>14 the, you know, tot -- the support that the</p> <p>15 patient had in after the -- the heart was taken</p> <p>16 out, you know, that kind of support that the</p> <p>17 patient had. That's all complicated.</p> <p>18 Q. Can you recall talking with either Dr.</p> <p>19 Spencer or Dr. Daly or any other --</p> <p>20 A. No.</p> <p>21 Q. -- surgeons about this case?</p> <p>22 A. No. No. I don't recall.</p> <p>23 Q. So help me understand that. The --</p> <p>24 What happened here was very unusual and</p> <p>25 surprising; right?</p>

21 (Pages 78 to 81)

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<p>1 A. Yes.</p> <p>2 Q. Don't the surgeons in the Cardiac</p> <p>3 Surgery Department at the Mayo Clinic want to</p> <p>4 take steps to improve patient outcomes?</p> <p>5 A. They -- they do.</p> <p>6 Q. But you're telling me that after this</p> <p>7 incredible, catastrophic, unforeseen --</p> <p>8 never-before-seen event happened, you can't</p> <p>9 recall ever talking to a single one of the</p> <p>10 surgeons at the Mayo Clinic about it?</p> <p>11 MR. BRANTINGHAM: I'm just going to</p> <p>12 interpose an objection insofar as the question</p> <p>13 seems to ask about peer review, which is of</p> <p>14 course protected.</p> <p>15 MR. THOMPSON: Well he said that he</p> <p>16 never talked to anybody.</p> <p>17 MR. BRANTINGHAM: I understand. But</p> <p>18 the kind of windup to the --</p> <p>19 If you're just asking him about his</p> <p>20 conversations, fine. The wind -- insofar as the</p> <p>21 windup talked about improving patient safety and</p> <p>22 so forth, that's talking about peer review. So</p> <p>23 it's a different topic, I think.</p> <p>24 In any event, --</p> <p>25 MR. THOMPSON: Sure.</p>	<p>1 trying to figure out what happened. Am I</p> <p>2 understanding you correctly?</p> <p>3 A. I don't recall anyone to come to -- to</p> <p>4 talk to me specifically. I don't recall. That</p> <p>5 doesn't mean it didn't happen. Maybe it</p> <p>6 happened.</p> <p>7 Q. Well given the fact that you remember</p> <p>8 the way this heart looked a year after the fact,</p> <p>9 don't you think that having a conversation about</p> <p>10 this unbelievably rare event would be something</p> <p>11 that would stick out in your excellent memory?</p> <p>12 MR. BRANTINGHAM: Object to the form of</p> <p>13 the question. You can answer.</p> <p>14 A. I had, you know, chats with different</p> <p>15 physicians, but I can't recall whom with. So</p> <p>16 it's possible that I may have had any</p> <p>17 conversation with any of -- any one of the team.</p> <p>18 What I mean when -- when I was to answer your</p> <p>19 specific question, I was directed to a specific</p> <p>20 meeting regarding this matter and analyze this</p> <p>21 matter. I don't recall that happening. But</p> <p>22 brief communications, questions, thoughts,</p> <p>23 inputs, it may have happened and I don't recall.</p> <p>24 Q. Understood.</p> <p>25 You are involved in research right now</p>
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<p>1 MR. BRANTINGHAM: -- go ahead and ask</p> <p>2 about his conversations.</p> <p>3 Q. Yeah. So --</p> <p>4 A. Usually the -- the cases are discussed</p> <p>5 in the morbidity and mortality cases.</p> <p>6 Q. We're not going to talk about that</p> <p>7 though.</p> <p>8 A. But --</p> <p>9 Q. Because he -- he doesn't want you to</p> <p>10 talk about that.</p> <p>11 MR. BRANTINGHAM: Yeah. And you -- you</p> <p>12 can't talk about --</p> <p>13 You can -- I mean whether that happened</p> <p>14 or not, but you -- don't talk about any of the</p> <p>15 content of the morbidity and mortality.</p> <p>16 Q. Let me -- let me re -- kind of redirect</p> <p>17 us with a different question.</p> <p>18 If Dr. Villavicencio or Dr. Daly or Dr.</p> <p>19 Spencer or literally anyone else at the Mayo</p> <p>20 Clinic did anything to try to figure out what</p> <p>21 happened here, they didn't come and talk to you</p> <p>22 about it; is that right?</p> <p>23 A. They didn't come to talk to me?</p> <p>24 Q. Yeah. Literally nobody from Mayo came</p> <p>25 to talk with you about this case as part of</p>	<p>1 involving design of a heart box like OCS from</p> <p>2 TransMedics? I read that in your CV. Tell me</p> <p>3 what that means.</p> <p>4 A. Yes. We were trying to explore a field</p> <p>5 which is beating-heart transplantation. That</p> <p>6 has already been achieved by Stanford. Because</p> <p>7 that was achieved and, you know, demonstrated</p> <p>8 already in the last congress in AATS, we</p> <p>9 decreased our, you know, enthusiasm on that.</p> <p>10 Q. Understood.</p> <p>11 A. I was, you know, en -- you know,</p> <p>12 encouraged to do that, but someone anticipated,</p> <p>13 unfortunately.</p> <p>14 Q. They beat you to the punch.</p> <p>15 A. Yeah.</p> <p>16 Q. One of the --</p> <p>17 A. And I was very sad about that. Yeah.</p> <p>18 Q. One of the things listed in your</p> <p>19 ongoing research is epicardial ultrasound</p> <p>20 evaluation of heart donors during procurement in</p> <p>21 DBD donors.</p> <p>22 A. Yes.</p> <p>23 Q. Is that ongoing research?</p> <p>24 A. It has been ongoing. We stopped and we</p> <p>25 are going to restart again.</p>

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<p>1 Q. Did you perform an epicardial</p> <p>2 ultrasound evaluation on the donor in Idaho that</p> <p>3 you went to procure?</p> <p>4 A. No, we didn't.</p> <p>5 Q. Why not?</p> <p>6 A. Because the -- at that time the</p> <p>7 research was on hold.</p> <p>8 Q. What is the -- what is the hoped-for</p> <p>9 benefit of doing epicardial ultrasound</p> <p>10 evaluation of those donors?</p> <p>11 A. The hope should be to assess a heart</p> <p>12 that you can find a different picture that you</p> <p>13 were expected to find beforehand and see if</p> <p>14 there is anything that you can change or do at</p> <p>15 the time of the procurement.</p> <p>16 Q. Anything --</p> <p>17 Try to pick up on things that maybe</p> <p>18 were not seen on the ultrasound -- or the echo</p> <p>19 that was done by the donation facility?</p> <p>20 A. Not -- not precisely.</p> <p>21 Q. Okay.</p> <p>22 A. Meaning that the heart function,</p> <p>23 hemodynamics -- not the heart itself, the</p> <p>24 hemodynamics that impact on the heart may change</p> <p>25 and what is the consequence of that.</p>	<p>1 Q. Are you going to head that up?</p> <p>2 A. Yes, myself.</p> <p>3 Q. All right.</p> <p>4 A. And -- and my colleagues as well.</p> <p>5 Q. Sure. And obviously you think there --</p> <p>6 You must think there could be some</p> <p>7 benefit to that or else you wouldn't be</p> <p>8 restarting the research.</p> <p>9 A. There may be some benefit in the cases</p> <p>10 that you are in a situation where the heart</p> <p>11 is -- looks not ideal at the time of procurement</p> <p>12 and you may have -- you know, you may find</p> <p>13 things that you can correct at that precise time</p> <p>14 and convert that heart in a heart that you</p> <p>15 expect that would be okay.</p> <p>16 Q. Do you remember having any</p> <p>17 conversations with Michael Pick about this case</p> <p>18 other -- after you got off the airplane?</p> <p>19 A. No.</p> <p>20 Q. Can you remember ever having any</p> <p>21 conversations about this case with Alex</p> <p>22 Reynolds?</p> <p>23 A. With?</p> <p>24 Q. Alex Reynolds.</p> <p>25 A. Maybe that I requested the details of</p>
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<p>1 Q. When did that --</p> <p>2 A. But if you see nothing, I don't</p> <p>3 personally see any advantage of doing that.</p> <p>4 Q. When did that research start?</p> <p>5 A. When it started?</p> <p>6 Q. Yeah.</p> <p>7 A. About October '22.</p> <p>8 Q. And then --</p> <p>9 A. About that.</p> <p>10 Q. And then it was suspended?</p> <p>11 A. Temporarily. Because it was -- it was</p> <p>12 promoted by a colleague of mine. I was after</p> <p>13 him, join him, but it was not my initial</p> <p>14 research.</p> <p>15 Q. When was it suspended?</p> <p>16 A. It was about probably March.</p> <p>17 Q. Of '23?</p> <p>18 A. '23.</p> <p>19 Q. Why was it suspended?</p> <p>20 A. Because the colleague left and the</p> <p>21 enthusiasm decreased because of that.</p> <p>22 Q. When did it restart?</p> <p>23 A. Probably we are starting soon.</p> <p>24 Q. Oh, you're going to restart it.</p> <p>25 A. Yes.</p>	<p>1 this run.</p> <p>2 Q. The --</p> <p>3 A. The details of the run, meaning times</p> <p>4 of instrumentation, cross-clamp times, ischemic</p> <p>5 times and so on.</p> <p>6 Q. The flows, the pressures, the lactates,</p> <p>7 things like that.</p> <p>8 A. Anything of significance.</p> <p>9 Q. All right.</p> <p>10 A. Probably I met him, yes. Probably.</p> <p>11 Because he's the person who collects all the</p> <p>12 information.</p> <p>13 Q. There was initially a concern that the</p> <p>14 bleeding episode that happened with this heart</p> <p>15 in the operating room was caused by</p> <p>16 microperforations that resulted when the heart</p> <p>17 was put on the OCS machine. Do you know that?</p> <p>18 MR. BRANTINGHAM: Foundation.</p> <p>19 A. I'm not aware of anyone who would --</p> <p>20 with commonsense to say that with any proof or</p> <p>21 any -- any kind of a, you know --</p> <p>22 Who said that?</p> <p>23 Q. Dr. Villavicencio in his operative</p> <p>24 report.</p> <p>25 A. What did he say?</p>

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<p>1 Q. He says at one point, "We thought the 2 only way to control the bleeding" -- this is on 3 2132 -- "thought the only way to control the 4 bleeding was to give protamine and blood 5 products since we thought the bleeding came from 6 microscopic tears from the aortic root perfusion 7 in the OCS." First of all, is that the first 8 that you're hearing of that? I thought you read 9 the operative report, but maybe you missed that 10 part of it.</p> <p>11 A. Well I don't recall that part exactly, 12 but what I say, that is a personal, subjective 13 opinion that may potentially be consistent with 14 a possibility. But microscopically, I can give 15 testimony that there were no issues at the time 16 we instrumented and we put the heart in the OCS, 17 any kind of perforations or whatever.</p> <p>18 Q. Can you explain physiologically to me 19 how microscopic tears from the aortic root 20 perfusion on the OCS would lead to the sort of 21 widespread intramyocardial bleeding that he's 22 talking about?</p> <p>23 A. No, I cannot.</p> <p>24 MR. BRANTINGHAM: I was going to object 25 to foundation, but that's fine.</p>	<p>1 have to highlight that it is a crucial 2 difference between the heart that was on the OCS 3 at the time of procurement, during 4 transportation, and even after -- at the time of 5 taking the heart out of the box, regarding 6 whatever sizes may have been measured at that 7 time and the sizes of what had been measured 8 after the event. And the reason is in some way 9 quite simple. We all know what happened. We 10 all know that there were big hematomas and 11 bleeding or whatever. Why it happened, we don't 12 know, but that occurrence change absolutely 13 everything. And the heart was studied by the 14 pathologist obviously after all this happened, 15 so there is no way -- no way, by my 16 understanding, to assume that those measurements 17 were present at the time that the heart was on 18 the OCS, or even taken out from the OCS and 19 going to the field.</p> <p>20 MR. BRANTINGHAM: That's my only 21 question. Thank you.</p> <p>22 EXAMINATION</p> <p>23 BY MR. THOMPSON:</p> <p>24 Q. So with respect to that, I think what 25 you're saying is we just don't know one way or</p>
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<p>1 Q. Okay. Oh, last question. 2 Do you have stock in TransMedics?</p> <p>3 A. No, I don't.</p> <p>4 Q. Okay.</p> <p>5 A. Hopefully I should have it, but I 6 don't.</p> <p>7 Q. Maybe you should, maybe you shouldn't. 8 I don't know.</p> <p>9 A. Yeah.</p> <p>10 MR. THOMPSON: All right. I don't have 11 any other questions. Thank you, doctor.</p> <p>12 EXAMINATION</p> <p>13 BY MR. BRANTINGHAM:</p> <p>14 Q. Doctor, I just have one question. 15 You were asked some questions about 16 heart measurements by the Mayo pathologist and 17 there was something you wanted to explain about 18 the pathologist's measurements. Could you just 19 explain what you wanted to explain?</p> <p>20 A. Yes. Going back to that part of the 21 interrogation in which you stated that the 22 pathologist mentioned that the width of the wall 23 of the heart was more -- 18 or more -- or more, 24 and I said that the normality was the other 25 size, so it was 60 percent more or whatever. I</p>	<p>1 another, it's kind of a different heart after 2 this whole event happens. Is that what you're 3 saying?</p> <p>4 A. Say that again. Sorry.</p> <p>5 Q. I think what you're saying is the heart 6 that you put on the machine and the heart that 7 was dissected on pathology after it went through 8 an OCS run and it had an attempted transplant, 9 and it bled, and it got protamine, and it got 10 blood products and all that kind of stuff, it 11 was a very -- two very different hearts --</p> <p>12 A. Yes.</p> <p>13 Q. -- in a sense.</p> <p>14 A. Yes.</p> <p>15 Q. How would the bleeding cause the 16 ventricle wall to increase in thickness by 17 66 percent?</p> <p>18 A. I don't have that answer. If I should 19 have that, the real -- the molecular -- the real 20 cause of that, I should, you know, aim to tell 21 to the scientific society. But I -- I don't 22 know. And no -- unfortunately I don't think 23 anyone can know exactly for sure because -- 24 that's my feeling. And I raise the question in 25 the congress and no one could say anything.</p>

24 (Pages 90 to 93)

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<p style="text-align: right;">Page 94</p> <p>1 Q. And I want to make sure we're on the 2 same page about that. It very well could be 3 that the ventricle wall was 1.8 centimeters when 4 you put the heart on OCS. What -- all you're 5 saying is you can't use this pathology to say 6 that definitively because we don't know what 7 happened to the thickness of the ventricle wall 8 after the heart went through everything it went 9 through. Is that fair?</p> <p>10 A. No. It will not --</p> <p>11 It's not correct to say it wouldn't be 12 that when we put the heart it was 18, or we -- 13 we took out it was 18, it wouldn't be. The 14 heart was not on those sizes, otherwise we 15 should be aware of the, you know, the different 16 size hematomas, ed -- gross edema, whatever 17 happened afterwards. It was after the 18 implantation and after whatever happened in the 19 op note that I -- I just -- I am in the same 20 situation that probably all these people who 21 are -- are reading the op notes. So I read the 22 op notes and I haven't been there, I cannot say.</p> <p>23 Q. Is it typical for hearts that are 24 transported on OCS to be more edematous at the 25 end of the run?</p>	<p style="text-align: right;">Page 96</p> <p>1 CERTIFICATE 2 I, Nicole A. Huber, hereby certify that 3 I am qualified as a verbatim shorthand reporter; 4 that I took in stenographic shorthand the 5 testimony of GUSTAVO KNOP at the time and place 6 aforesaid; and that the foregoing transcript 7 consisting of 95 pages is a true and correct, 8 full and complete transcription of said 9 shorthand notes, to the best of my ability. 10 Dated at Baxter, Minnesota, this 21st 11 of August, 2024.</p> <p>12 13 14 15 16 NICOLE A. HUBER 17 Notary Public 18 19 20 21 22 23 24 25</p>
<p style="text-align: right;">Page 95</p> <p>1 A. I shouldn't call it typical. What I 2 could say is the longest the run is, the -- the 3 more is the chance to get some sort of 4 myocardial edema. Indeterminate. It may not 5 be, may not -- it may be significant. There are 6 many aspects. But the shorter it is, or 7 within -- I should say more than six hours if I 8 expect some edema? Yes, I should expect some 9 edema. That edema may impact in the function of 10 the heart, I don't know.</p> <p>11 MR. THOMPSON: Okay. I don't have any 12 other questions. Thank you.</p> <p>13 MR. BRANTINGHAM: No more questions 14 from me. We will read and sign.</p> <p>15 THE REPORTER: Okay. Thank you. Off 16 the record.</p> <p>17 (Deposition concluded at 11:00 a.m.) 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 97</p> <p>1 SIGNATURE PAGE 2 I, GUSTAVO KNOP, the deponent, hereby 3 certify that I have read the foregoing 4 transcript, consisting of 95 pages, and that 5 said transcript is a true and correct, full and 6 complete transcription of my deposition, except 7 per the attached corrections, if any.</p> <p>8 PAGE LINE CHANGE/REASON FOR CHANGE 9 _____ 10 _____ 11 _____ 12 _____ 13 _____ 14 _____ 15 _____ 16 _____ 17 _____ 18 _____</p> <p>19 Date Signature of Witness 20 21 WITNESS MY HAND AND SEAL this _____ 22 day of _____, 2024. 23 24 (NAH) _____ 25</p>

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